

Minority Rights Group International

Sri Lanka: A Bitter Harvest

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SRI LANKA: A BITTER HARVEST

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MINORITY RIGHTS GROUP

Minority Rights Group works to secure rights and justice for ethnic, linguistic and religious minorities. It is dedicated to the cause of cooperation and understanding between communities.

Founded in the 1960s, Minority Rights Group is a small international non-governmental organization that informs and warns governments, the international community, non-governmental organizations and the wider public about the situation of minorities around the world. This work is based on the publication of well-researched reports, books and papers; direct advocacy on behalf of minority rights in international fora; the development of a global network of like-minded organizations and minority communities to collaborate on these issues; and **the challenging of prejudice and promotion of public understanding** through information and education projects.

Minority Rights Group believes that the best hope for a peaceful world lies in **identifying and monitoring conflict** between communities, **advocating preventative measures** to avoid the escalation of conflict and **encouraging positive action** to build trust between majority and minority communities.

Minority Rights Group has consultative status with the United Nations Economic and Social Council and has a worldwide network of partners. Its international headquarters are in London. Legally it is registered both as a charity and as a limited company under the United Kingdom Law with an International Governing Council.

THE PROCESS

As part of its methodology, MRG conducts regional research, identifies issues and commissions reports based on its findings. Each author is carefully chosen and all scripts are read by no less than eight independent experts who are knowledgeable about the subject matter. These experts are drawn from the minorities about whom the reports are written, and from journalists, academics, researchers and other human rights agencies. Authors are asked to incorporate comments made by these parties. In this way, MRG aims to publish accurate, authoritative, well-balanced reports.



*Displaced Tamil woman and
child in refugee camp, near
Eravur*
© MARTIN ADLER/PANOS

Sri Lanka: A Bitter Harvest

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Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (UN General Assembly; Resolution 47/135 of 18 December 1992)

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group, with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights including those as set forth in this Declaration individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights as set forth in this Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, *inter alia* exchanging of information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights as set forth in the present Declaration.

Article 8

1. Nothing in this Declaration shall prevent the fulfilment of interna-

tional obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights as set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
3. Measures taken by States in order to ensure the effective enjoyment of the rights as set forth in the present Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles as set forth in the present Declaration, within their respective fields of competence.

International Covenant on Civil and Political Rights (1966)

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

International Covenant on Economic Social and Cultural Rights (1966)

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. (...)
2. The States parties to the present Convention recognize that: (...)
 - (b) Secondary education (...) made generally available and accessible to all by every appropriate means and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all (...)

Convention on the Elimination of all Forms of Racial Discrimination (1965)

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races...
2. States parties shall, when the circumstances so warrant, take, in the social, economic cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. (...)

Convention on the Rights of the Child (1989)

Article 29 (1)

States Parties agree that the education of the child shall be directed to:

(...)

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(...)

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with the other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Preface

For over 15 years, Sri Lanka has been engaged in a protracted armed conflict which has claimed tens of thousands of lives. The hopes raised on the election of the People's Alliance government in August 1994 for the forging of a sustainable and just peace have been dashed. The new government was elected on a platform of peace. It opened negotiations with the secessionist Liberation Tigers of Tamil Eelam (LTTE) and in January 1995 a cessation of hostilities was agreed. However, the deep distrust on both sides was not easily overcome and in April 1995 the LTTE broke off the negotiations. In an escalation of violence in late 1995, the government forces went on to capture the city of Jaffna, a stronghold of the LTTE. This resulted in a humanitarian crisis on a scale never before experienced in the history of the conflict.

MRG's first report on the Tamils of Sri Lanka was published in 1975. This latest report, *Sri Lanka: A Bitter Harvest*, shows that the key issue underlying the conflict stems from the fact that the highly centralized unitary Sri Lankan state has enabled Sinhalese majority interests to dominate national politics at the expense of other groups. As author Elizabeth Nissan illustrates, however, there is a greater complexity to the conflict than the commonly represented Tamil-Sinhala divide. Both of these communities have their own divisions. Indeed, in the 1970s and late 1980s, there were armed insurgencies against the government from within the majority Sinhalese community. The Muslim community has also been caught up in the conflict, and in recent years has put forward separate political demands to include regional autonomous councils to protect its security and identity.

Sri Lanka is a tragic and illuminating example of how political and ethnic identities evolve, are transformed, and become hardened through time. It emphasizes the need to take early preventative measures, however difficult and costly these may be, as it becomes more and more difficult to respond once positions are polarized through violence.

The report shows that Sri Lanka is composed of diverse ethnic and religious communities with a majority Sinhalese – predominantly Buddhist community; and Tamil population, most of whom are Hindu. There are two main Tamil groups: the Sri Lankan Tamils, who claim a long history to the island and the Up Country Tamils, who were brought over by the British in the nineteenth century as labourers. The latter's hardships are well known, including their fight to attain citizenship and lose the discrimination that comes with being a citizen by 'residence' rather than 'origin'. Additionally, there is a Muslim community, and a number of other smaller groups, including a community of 2,000 original inhabitants of the island, the Wanniya-laeto

(Veddas). While there is a high degree of overlap between religious affinity and ethnicity, there is also a Christian community made up of Sinhalese and Tamils.

Sri Lanka: A Bitter Harvest surveys the civil, political, social, economic and cultural rights of the various minorities all of which must be taken into account if the quest for a durable and lasting peace is to be achieved. It traces the historical developments of the conflict, drawing attention to the consequences of the diversity of interests, approaches, and identities underlying the roots of the conflict.

The report is explicitly 'rights' focused, using the United Nations Declaration on the Rights of (...) Minorities and other relevant standards to conceptualize the main issues that underlie the conflict, particularly those regarding language, education, land, representation and devolution. It further draws attention to the continuing conflict, and its impact in preventing the realization of these rights.

Like many MRG reports focusing on situations of protracted armed conflict, the Sri Lankan case unveils many familiar themes. These include: rivalling territorial and nationhood claims; competition between communities over power and resources; failed ceasefires, attempts at negotiation and implementation of agreements, generating and perpetuating a culture of distrust and fear; campaigns of disinformation and censorship; and emotive contestations over the interpretation of history. It also includes issues such as conflict-generating affirmative action policies (in this case favouring the majority community); and policy approaches to address grievances relating to a variety of issues. At a time when significant devolution of powers to regional units is being discussed, the report also addresses the critical issue of the rights of groups who would form minorities within the new units.

These themes highlight the critical challenge facing Sri Lanka in the hope that, with the practical help of the international community, the country may draw on comparative experiences, identify lessons, and apply new and creative proposals in the search for a just and durable peace.

Alan Phillips
Director
January 1996

Glossary

<i>arasu</i>	state
CIC	Ceylon Indian Congress
CTC	Ceylon Tamil Congress
CTTU	Ceylon Tamil Teachers' Union
DDC	District Development Council
DUNF	Democratic United National Front
EPDP	Eelam People's Democratic Party
EPRLF	Eelam People's Liberation Organization
FP	Federal Party
HRTF	Human Rights Task Force
ICRC	International Committee of the Red Cross
IPKF	Indian Peace Keeping Force
JVP	Janatha Vimukthi Peramuna – People's Liberation Front
LTTE	Liberation Tigers of Tamil Eelam
MEP	Mahajana Eksath Peramuna – People's United Front
MP	Member of Parliament
NIE	National Institute of Education
PA	People's Alliance
PTA	Prevention of Terrorism Act
<i>satyagraha</i>	non-violent protest
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
TELO	Tamil Eelam Liberation Organization
TNA	Tamil National Army
TUF	Tamil United Front
TULF	Tamil United Liberation Front
UF	United Front
UN	United Nations
UNP	United National Party

Note on the geographical terms used

In this report, repeated reference is made to 'the south' and to 'the north and east'. These terms are used descriptively and do not refer to any formal political or administrative unit. When specific administrative units are meant, the proper name is given. The 'north and east' refers to the area which until 1987 was covered by Northern and Eastern Provinces respectively. Under the terms of the Indo-Sri Lanka Accord these two provinces were temporarily merged (to create Northeastern Province). However, the referendum which was to be held in the east to decide whether the merger would continue has not been held and the future of the merger remains uncertain. 'The south' refers to all other areas of the island.



Introduction

The nature of the conflict

The people of Sri Lanka have suffered over 15 years of violent conflict between militant members of the island's Tamil minority¹ and the government. Where at first the conflict involved small groups of armed Tamil militants attacking targets associated with the state, it has escalated over the years to deeply affect the civilian population of all communities, especially those living in the north and east – the main area of conflict. The north, a predominantly Tamil area, has suffered extensive bombing and shelling with little discrimination between civilian and military targets. In the east, inhabited by Sinhalese, Tamils and Muslims, Sinhalese and Muslims have been attacked and killed by Tamil militants; and Tamils have been attacked and killed by the security forces and civilian home guards.

Tens of thousands of lives have been lost, and tens of thousands of people have been displaced from their homes to lead lives of great emotional, physical and economic insecurity within the country. Others have sought political asylum overseas. The conflict has altered the demographic balance of certain areas of the island through displacement, and – in the Jaffna peninsula and Mannar island – because members of the Muslim minority living there were driven out by the dominant armed Tamil group, the Liberation Tigers of Tamil Eelam (LTTE).²

The standard of health, education and other public services of which Sri Lanka was once rightly proud has deteriorated dramatically in the north and east. Society in the north, in particular, has become heavily militarized, especially in the northern Jaffna peninsula and adjoining districts which were under the exclusive control of the LTTE from 1990 to late 1995. In the east, where the government controls the main towns, the military holds considerable sway over the local administration.

In addition to the conflict between Tamil militants and the state, there was also an armed insurgency within the majority Sinhalese community in the south from 1987 to 1990,³ which was met with unprecedented levels of violence by the security forces. Throughout the island immemorable atrocities have been committed by the state, or groups acting on their behalf, and armed militants.

The key issue underlying the conflict in the north and east has been the perception by the minority Sri Lankan Tamil community that the unitary state system has allowed the majority Sinhalese community to dominate national politics at the expense of minorities. As a result, the Tamil community is seen to have suffered severe dis-

crimination and erosion of its political, economic and cultural rights. Several of the specific political issues underlying the conflict have been resolved, at least in principle. Yet years of war have generated new grievances – which need to be addressed – as well as deepening the distrust between the parties involved.

In addition, especially since 1990, the conflict has threatened Muslim interests, security and identity in the north and east. Muslims, and Sinhalese, were driven out of the north, once it came under exclusive control of the LTTE, and many continued to live in refugee camps in early 1996. In the so-called 'border areas' of the north and east, and the south, hundreds of villagers have been killed by LTTE attacks.

The nature of the LTTE's rule over the north, which includes the torture and killing of those Tamils who oppose it, has been increasingly questioned in recent years, posing yet more difficult questions about how the rights of people living under their domination can be protected. This makes clear the necessity for strong and enforceable guarantees on the rights of individuals and groups living in all parts of the island to be included within any future conflict resolution discussions and within any future constitutional package.

The population of Sri Lanka

The last island-wide census of Sri Lanka was held in 1981. Perhaps because the government has lost control of large parts of the north and east, no such exercise has been conducted since. These figures therefore predate the escalation of armed conflict in 1983, since when hundreds of thousands of people have been killed, internally displaced or left the island. No comprehensive data is available to demonstrate the effect of the conflict on the people of the north and east, nor on the geographical distribution of the population. Were such data available, however, it would probably show major changes in the age distribution and proportion of males in the population, household structure and the geographical distribution of the three main ethnic communities.

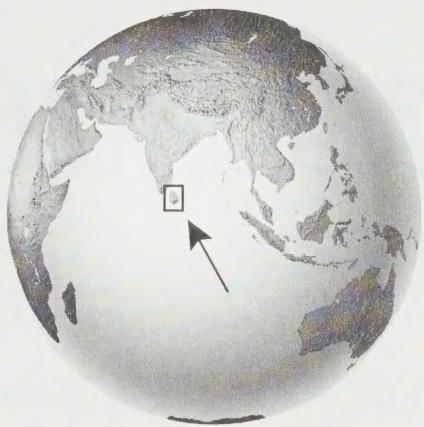
There are several ethnic and religious communities in Sri Lanka. In 1981 the majority Sinhalese community formed 74 per cent of a total population of some 14,850,000. Tamils as a whole formed 18.1 per cent of the total population, but are divided into two main groups: the Sri Lankan Tamils, who claim a long history in the island, constituted 12.6 per cent of the total; and the Up Country Tamils,⁴ who were brought from south India by the British

in the nineteenth century to work as labourers in the new plantation sector, constituted 5.5 per cent.⁵ The third major community, the Muslims, constituted 7.1 per cent, while other smaller groups, including the indigenous Veddas, constituted 0.6 per cent.⁶ There is a large overlap between religious affiliation and ethnicity in Sri Lanka: 69.3 per cent of the 1981 population was Buddhist, all of whom would have been Sinhalese; 15.5 per cent were Hindu, all of whom would have been Tamil; 7.6 per cent were Muslim, including both the Muslim community mentioned above and the small Malay community; and 7.5 per cent were Christian (mostly Roman Catholic), including both Sinhalese and Tamil Christians. As for language, Tamils and Muslims generally have Tamil as their first language, while Sinhalese speak Sinhala. English is spoken by the élites of all communities.

In terms of the geographical distribution of the population, the north has long been populated predominantly by Sri Lankan Tamils and the south predominantly by Sinhalese. The east, however, has been mixed, with all three main communities (Sinhalese, Tamil and Muslim) represented in roughly equal proportions, but with differing concentrations in different parts of the east. Up Country Tamils live mainly in the central highlands where the tea plantations are located.

Despite the concentration of certain communities in certain areas, it is clear from the 1981 census that at least some members of all the main ethnic groups of Sri Lanka lived in every district of the island.

SRI LANKA - POPULATION DISTRIBUTION



THE POPULATION OF SRI LANKA CONSISTS OF

SINHALESE (S)	74.0%
SRI LANKAN TAMIL (ST)	12.6%
UP COUNTRY TAMIL (UCT)	5.6%
MUSLIM (M)	7.1%
OTHER (O)	0.7%

S	- 0.6%
ST	- 95.3%
UCT	- 2.4%
M	- 1.7%
O	- 0%

The figures relate to Jaffna & Kilinochchi

S	- 8.1%
ST	- 50.6%
UCT	- 13.2%
M	- 26.6%
O	- 1.5%

S	- 33.6%
ST	- 33.8%
UCT	- 2.6%
M	- 29.0%
O	- 1.0%

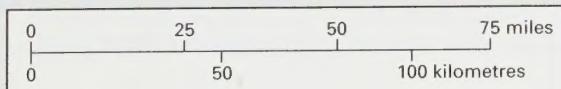
S	- 3.2%
ST	- 70.9%
UCT	- 1.2%
M	- 23.9%
O	- 0.8%

S	- 35.9%
ST	- 13.5%
UCT	- 47.3%
M	- 2.8%
O	- 0.5%

S	- 68.5%
ST	- 5.7%
UCT	- 21.1%
M	- 4.2%
O	- 0.5%

S	- 97.4%
ST	- 0.4%
UCT	- 0.1%
M	- 1.1%
O	- 1.0%

S	- 77.9%
ST	- 9.8%
UCT	- 1.3%
M	- 8.3%
O	- 2.7%

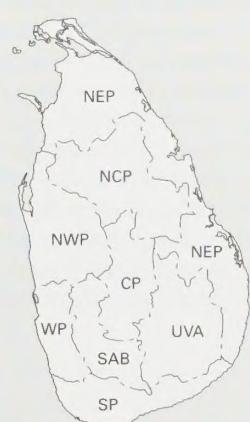


District borders

Source: 1981 Census, Department of Census and Statistics.

PROVINCES OF SRI LANKA

NEP	North Eastern Province
NCP	North Central Province
NWP	North Western Province
UVA	Province of Uva
SAB	Province of Sabaragamuwa
CP	Central Province
WP	Western Province
SP	Southern Province



The state and minorities

The colonial situation

The demand for a separate state for the Tamil people, which was expressed most clearly from the 1970s onwards, arose from the failure of repeated attempts to meet Tamil aspirations. This failure, together with growing economic problems and rising unemployment, contributed to the rise of assertive and aggressive Tamil militancy.

Even before Sri Lanka gained independence in 1948, it was doubtful that the rights of minorities could be secured within the framework of a unitary state without clear checks on the power of the majority group. Given the ethnic balance in the country, a unitary constitution would result in the domination of national politics by the majority ethnic group, the Sinhalese. At that time, the majority community numbered some 69.4 per cent of a total population of about 6,657,300, of whom 43.6 per cent were Low Country Sinhalese and 25.8 per cent were Kandyan Sinhalese.⁷ The Tamil population comprised 22.7 per cent of the population, 11 per cent of whom were classified as Ceylon (Sri Lankan) Tamils and 11.7 per cent of whom were classified as Up Country Tamils.

By independence, Sri Lankan politics had a distinctly communal flavour. This derived partly from British colonial perceptions and practices. The British were the last of three colonial powers, following the Portuguese and the Dutch, and in 1833 were the first to bring the whole of Ceylon (as it was then called) under a single colonial administration, with a Governor and Legislative, and Executive Councils.

From the start, 'native' representation was established on communal grounds: with unofficial Sri Lankan members of the Legislative Council chosen to represent different communities. Some degree of communal representation was retained until 1931,⁸ when it was abolished under a new constitution, in favour of territorial electorates (which the British hoped would dampen communal feelings in politics), and universal adult franchise was introduced. However, the shift to territorial representation raised serious concerns among the minorities that they would be swamped by the Sinhalese majority. The first electoral boycott was led by Tamil politicians in four Tamil constituencies in the Northern Province in 1931.⁹

By the time the Soulbury Commissioners arrived in 1944 to prepare the way for independence, the Ceylon Tamil Congress (CTC) had been formed and was demanding that 50 per cent of the seats in the legislature be reserved for minorities to ensure that they could not be overwhelmed by Sinhalese interests, and that no community be permitted to hold more than half the cabinet posts.

This was rejected by the Commissioners and the Sinhalese leadership.

The Commissioners insisted on retaining a unitary state structure for the country, apparently believing that the minorities were large enough to withstand the enactments of the majority.¹⁰ They refused to incorporate a Bill of Rights into the constitution, but did introduce a degree of minority protection. This included creating some multi-member constituencies in the north and distributing seats throughout the island on the basis of area as well as of population. In addition, the new constitution prohibited the enactment of any law which would discriminate against, or give advantage to, the members of any community or religious group.

Shortly after the first election under the new constitution in 1947, held prior to independence, the Tamil leadership began to call for self-determination for the Tamil people, and for a federal state to safeguard Tamil interests.¹¹

The disenfranchisement of Up Country Tamils and the creation of the Federal Party

One of the first acts of the newly independent government was to enact two pieces of legislation which rendered stateless and disenfranchised some 900,000 Up Country Tamils, making a mockery of the limited safeguards that had been incorporated into the constitution. Their disenfranchisement was motivated more by Prime Minister D.S. Senanayake's fears about the strength of the leftist vote in parliament than through a purely communal vote. Opposition to these enactments did not follow strict ethnic lines; indeed, several Ceylon Tamil members of parliament (MPs) of both the ruling United National Party (UNP) and the CTC voted for the bills or did not seriously oppose them. Opposition to the bills came primarily from the Ceylon Indian Congress (CIC) MPs (who represented Up Country Tamils), the major left parties, most of whose MPs were Sinhalese, and various independents.¹² CIC members lost their parliamentary seats as a direct consequence of this legislation, and Tamil representation declined in parliament overall. The disenfranchisement of the Up Country Tamils helped to lay the foundations for the 'Sinhalaization' of the state from the 1950s. It was a grave denial of the rights of a significant section of the island's population. Denied citizenship and representation, the Up Country Tamils remained one of the most neglected groups on the island, despite

their key role in the economy producing the island's main export crop.

The CTC, which had allied with the UNP in 1948, split over the Up Country Tamils' disenfranchisement. Some leading members who had opposed the citizenship legislation, left the CTC and in 1949 formed the Federal Party (FP). The FP was to become a strong force in Tamil politics in the next three decades. Its creation marked a shift in the way in which Tamil politicians were conceptualizing the place of minorities in the state.¹³ The notion of the Tamil people as a 'nation', rather than as a minority community, began to take shape. At the FP's first national convention in 1951 the following declaration was made, 'Tamils are a nation distinct from that of the Sinhalese by every fundamental test of nationhood'.¹⁴

The FP attempted to include within its definition of Tamil-speaking people both the Up Country Tamils and the Muslims, but in practice did not attract them in large numbers.

The 'Sinhalaization' of the state and minority rights

From 1948 to 1956, the government of D.S. Senanayake ruled in a manner which differed little from the policies developed under colonial rule. Power continued to reside in the small English-educated, western-orientated élite who dominated parliament and the bureaucracy. The official language remained English. Independence had brought few gains for the majority of people who had no knowledge of English, and who remained excluded from the centres of power.

The Buddhist revivalism of the late nineteenth and early twentieth centuries encouraged new forms of organization among Buddhists, and fostered new ideas of the relationship between Buddhism, the Sinhalese people, their language and culture, and the nation. A largely rationalized Buddhism developed, stripped of what were deemed syncretic trappings, and which westernized intellectuals deemed to be its true, original form.¹⁵ Anagarika Dharmapala was a particularly influential exponent of these ideas. In his extensive writings, he proclaimed the past greatness of the Sinhalese and stressed the unity of race, language, religion and territory. He drew upon European racial theory to assert the nobility of the Sinhalese as Aryans. These theories have formed the basis of modern Sinhalese nationalist thought, with the 'Aryan Sinhalese' being seen as opposed to the 'Dravidian Tamils' throughout history.

The granting of independence did not bring about the cultural transformation, power or status that Sinhalese nationalists hoped for. There was growing tension between the Colombo-based, English-speaking ruling class and the rural élites: the Sinhala-speaking, non-westernized class of village teachers, traders, students, monks and indigenous medical practitioners. As well as the barriers imposed by the continued use of English as the language of administration, they also felt that the Sri Lankan Tamil community had taken a disproportionately large share of power because it had benefited from superior educational opportunities dur-

ing the colonial era and was disproportionately represented in the administration.¹⁶ Considerable mercantile interests also lay in non-Sinhalese hands. Following S.W.R.D. Bandaranaike's split with the ruling UNP in 1951 and the formation of the Sri Lanka Freedom Party (SLFP), it was these Sinhala-educated rural élites who were key players in mobilizing nationalist sentiment to win the 1956 general election for the Mahajana Eksath Peramuna (MEP, People's United Front), led by Bandaranaike.¹⁷

The 1956 election brought communal identity to the fore in a new wave of cultural revivalism. The MEP promised that Buddhism would be restored to its rightful place in the polity, that Sinhala would become the official language of the state and that access to all levels of government would thus be opened to all (that is, to all Sinhala-speakers). In its campaign for the restoration of national culture and language it ignored minority groups. The nation was conceptualized in exclusively Sinhalese Buddhist terms. The assertiveness of these groups soon became evident in the passing of the Official Language Act of 1956 which made Sinhala the sole official language of the state.

Language and religion

Sinhalese cultural revivalism was not restricted to the parties forming the MEP; the UNP had also adopted a Sinhala-only language policy prior to the 1956 election, alienating several leading Tamil members within its ranks. The increasing political polarization of Sinhalese and Tamil communities was evident in the electoral gains made by the FP in the north and east in 1956, where it won 10 seats compared to its previous two in 1952.

The language legislation marked a further step in defining Ceylon as primarily a Sinhalese state. The adoption of the 'lion (*sinha*) flag' as the national flag in 1948 had already provoked considerable controversy, as it was interpreted as symbolizing a state in which Sinhalese Buddhists were dominant, with the Tamil and Muslim minorities represented in single yellow and green stripes respectively.¹⁸ Tamils retaliated against the denial of their language rights in 1956 with an intense but non-violent protest campaign, and the first of several outbreaks of communal violence against Tamils occurred.

In August 1958 the Tamil Language (Special Provisions) Act was passed. It allowed for the 'reasonable use of Tamil' in education, public-service entrance exams and administration in the Northern and Eastern Provinces and authorized the prime minister to regulate for the use of Tamil in these areas. However, implementing regulations to give effect to this legislation were not framed until 1966 and then were not implemented.

Meanwhile, Sinhalese politicians won an increasing proportion of seats at successive elections. In the 1947 general election, Sinhalese politicians won 67 per cent of seats in the legislature. In 1952, they won 73 per cent of seats after the Up Country Tamils had been disenfranchised. In 1959 Sinhalese representation increased to 78 per cent of seats, and by the end of the 1970s they held 80 per cent of seats. The Sinhalese preponderance in the legislature made it easier for the constitution to be changed

without regard for the aspirations and rights of the country's minorities.²³

A watershed in the 'Sinhalaization' of the state came in May 1972 when the republican constitution was passed. The United Front (UF) government, led by Prime Minister Sirimavo Bandaranaike of the SLFP,²⁴ had come to power in 1970, promising to shake off 'the shackles of colonial subjection'.²⁵ This was to be achieved by asserting Sinhalese Buddhist cultural forms. As described by one writer, the new constitution:

Was in many ways a symbolic assertion of nationalism ... [T]he 1972 Constitution enshrined the expectations of the Sinhalese Buddhist nationalists without a single concession to the Tamil speaking minority.'

Most contentious were the new constitutional provisions on religion and language. The constitution gave 'the foremost place' to the Buddhist religion, which the state was obliged 'to protect and foster'. The symbolic primacy of Buddhism in the Sri Lankan state thus gained constitutional authority. However, all religions were protected by the chapter on fundamental rights, subject to certain limitations relating to law and order. The new constitution defined Sinhala as the official language of the state, as provided by the 1956 Official Language Act, and Tamil was given an inferior status. The constitution specified that all laws would be enacted in Sinhala with a Tamil translation provided, but that the Sinhala version would be the definitive version; that Sinhala would be the language of the courts and related institutions throughout the island, with provision for translations in Sinhala or Tamil and that the National State Assembly could, under its own law, provide for Tamil to be used as the language of the courts in the Northern and Eastern Provinces.²⁶ In addition, it provided for Tamil to be used in accordance with the 1958 Tamil Language (Special Provisions) Act, but specified that regulations framed under that Act would be subordinate to constitutional provisions.

The new constitution contained weakened protection for minorities. Although it contained a chapter on fundamental rights, which the 1931 constitution lacked, these rights could be subject to very wide-ranging restrictions. The 1972 constitution contained protection from discrimination in public employment on the ground of religion, race, caste or sex, but this was weaker than that which had been provided under clause 29(2) of the 1931 constitution, which had prohibited any discriminatory legislation being passed.²⁷

The FP and some Tamil Congress members withdrew from the Constituent Assembly which framed the 1972 constitution after an amendment on parity of status for the Tamil and Sinhala languages was defeated. The FP had hoped that the provisions of the 1966 Tamil Language Regulations would be incorporated, but these were not included until the 1978 constitution. When the Constituent Assembly met in May 1972 to pass the new constitution, it was boycotted by 15 of the 19 elected Tamil representatives. Two members of the Tamil Congress, however, voted with the government when the constitution was adopted.

Ethnic competition and the university entrance system

For many Tamils, the 1972 constitutional provisions on religion and language confirmed their feelings of being second-class citizens. Their sense of alienation was further reinforced by the UF government's policies on university entrance. Within the Jaffna Tamil community, education had long been highly valued. Missionary education in the north during the colonial period had left a legacy of academic achievement, which was reflected in the large numbers of Jaffna Tamil students (including those living in Colombo) admitted to university.

The changes introduced by the UF government were intended to broaden access to higher education for the Sinhalese. Tamils, however, saw them as discriminatory and prejudiced. They had a great impact on the life chances of many Jaffna Tamil youth who previously would have expected to enter professional life. They also had unforeseen and disastrous effects on the future of ethnic relations in the country:

[T]he direct consequences of a decade of misdirected education policies have had a tremendous impact on Tamil insurgent groups. In many cases the leaders and cadre of these groups are those who were left out of universities because of district quotas or those who left universities due to the increasing frequency of anti-Tamil riots and a growing sense of insecurity in Sinhalese-dominated universities ... [I]t is significant that a number of Tamils interviewed [by the author] claimed that discriminatory education policies were the single most important reason which led them to guerrilla activities.²⁸

Previously, students had gained entrance to university on the basis of competitive examinations and those with the highest marks gained places. Marks were awarded on a uniform basis throughout the island. Under this system Tamils from Jaffna and Colombo did particularly well. In 1969–70, for example, Tamil students constituted 35 per cent of the intake into science and engineering courses, and over 45 per cent in the engineering and medical faculties.²⁹ From 1971, however, a new system was introduced which was designed to ensure that the number of students qualifying from each language medium would be proportionate to the number of students who had sat the exam in that medium. In practice, this meant that Tamil-speaking students would have to get higher marks for university entrance than Sinhalese-speakers because overall they performed better in these examinations. Many Tamils who would previously have gained access to university now would not.

Quota system

In 1972 a 'district quota system' was introduced to compensate for the fact that certain groups within each language medium had access to better teaching facilities than others. It was intended to benefit those living in rural areas with lower-standard educational facilities, including

the Kandyan Sinhalese, who were educationally disadvantaged among Sinhala-speakers, and the Muslims, who were disadvantaged among Tamil-speakers.

These university entrance changes had a great impact on the proportions of students from different ethnic groups who were able to enter university. The percentage of places held by Tamil students in the science-based disciplines fell from 35.3 per cent in 1970 to 19 per cent in 1975.²⁷ Overall the proportion of Sinhalese students increased dramatically. Sinhalese students came to constitute 78 per cent of students in science-based courses in 1975. They also held over 86 per cent of places in the humanities and social sciences. The marks required for university entrance in the Kandyan areas were particularly low because of the presence of large numbers of Tamils on the plantations who had very little chance of ever entering university because of the poor education they received. In practice, this benefited the Sinhalese living in these areas.²⁸ Between 1970 and 1975 the number of Muslims entering science-based courses doubled, but remained below 6 per cent.

The district quota system became the focus of intense opposition among Tamils:

*The political impact of the district quota system has been little short of disastrous. It has convinced many Sri Lanka Tamils that it was futile to expect equality of treatment with the Sinhalese majority. It has immensely strengthened separatist forces within the Tamil United Front and contributed to the acceptance of a policy campaigning for a separate state in early 1975. It has kindled resentment against the Muslims in both Tamil and Low-Country Sinhalese areas and rendered relations between the Kandyan and Low-Country Sinhalese more fragile than before.*²⁹

Changes to the university entrance system in the 1970s increased. After the UNP leader J.R. Jayawardene became prime minister in 1977, he abolished standardization by language medium, and since then there have been various adjustments in the proportion of university places allocated according to merits, district quotas and disadvantaged district quotas. Nevertheless, the lost faith engendered by changes to the university entrance system was never restored.

The road to Tamil militancy and Indian intervention

The failure of negotiations: the 1950s and 1960s

Negotiations between Tamil parties and the government were repeatedly marked by hopeful signs of progress on substantive issues, only to be dashed by the failure of successive governments to implement what had been agreed.

In August 1956 the FP made four main demands to Prime Minister S.W.R.D. Bandaranaike's government. It called for a federal constitution, parity of status for the Tamil and Sinhala languages, repeal of the discriminatory citizenship laws which rendered the Up Country Tamils stateless, and an immediate halt to the colonization of what were seen as traditional Tamil-speaking areas with Sinhala people. The FP threatened to take 'direct action by non-violent means' if these demands were not met.

Less than a year later, in July 1957, S.W.R.D. Bandaranaike and FP representatives, led by S.J.V. Chelvanayakam, reached an agreement which – had it actually been implemented many believe could have laid the foundation for continuing peace. The Bandaranaike-Chelvanayakam Pact did not promise a full federal structure, nor did it meet the FP's demands in full. But it did offer a framework for regional devolution and the promise of further development on the other issues.

Under the agreement – which the FP described as an 'interim adjustment' and not a final solution – the Northern Province would constitute one region, while Eastern Province would contain at least two regions, but there would also be provision for regions to cooperate on specific matters and to amalgamate or divide, with parliamentary approval. The agreement did not offer parity of status for Sinhala and Tamil languages, but did promise that Tamil would be recognized as a national minority language and that administrative work in the north and east would be done in Tamil, with provision made for non-Tamil speakers. It also contained pledges against future colonization.

Under the Pact, Regional Councils would be granted the power to select those to whom lands in their area of authority should be allotted and to select the personnel to work on such schemes. No agreement was reached on the nature of revisions to the Citizenship Act, but the government promised to give early consideration to this issue.

However, the Bandaranaike-Chelvanayakam Pact was never implemented. Indeed, it was abrogated by Bandaranaike in April 1958 under mounting pressure from Sinhalese nationalist lobbies. That it was J.R.

Jayawardene who led an opposition march to Kandy – the seat of the last Sinhalese kingdom – to invoke the blessings of the gods for the campaign against the Pact is one of the sad ironies of Sri Lankan history; for some 20 years later, he made Tamil an official language under the constitution, granted citizenship to the Up Country Tamils and reached agreement with India on a new scheme of devolution to provincial councils.

In 1960, before the general election, the FP again set out its four main demands, as the basis on which it would agree to form a coalition with either the UNP or the SLFP.³⁰ The SLFP pledged to implement measures on the lines of the Bandaranaike-Chelvanayakam Pact, so the FP gave its support. In the event, however, the SLFP won an outright victory and ignored its agreement. Instead, from 1 January 1961, the government instituted Sinhala as the language of administration throughout the island as had been envisaged in the 1956 'Sinhala only' legislation. It made no substantive concessions to Tamil-speakers, and made no provision to implement the 1958 Tamil Language (Special Provisions) Act.

In 1965 the FP entered into another pact, but this time with the UNP. The Senanayake-Chelvanayakam Pact was negotiated between Dudley Senanayake and S.J.V. Chelvanayakam in order to secure the support of the FP in forming a 'national government' under Senanayake. This agreement was similar to the Bandaranaike-Chelvanayakam Pact, with provisions on the use of the Tamil language, on the creation of district councils and on land and colonization. Neither this Pact, nor the Tamil Language Regulations, which were published on 2 March 1966, were implemented. And in July 1968 the draft bill to provide for district councils 'under the control and direction of the central government' was dropped because of strong opposition pressure. The FP withdrew from the government.

The Tamil response: civil disobedience and the rise of Tamil separatism

Some analysts have identified four phases in the development of Tamil opposition politics.³¹ The first, from 1947 to 1956, was a period of 'responsive cooperation' between the English-speaking élites of the Sinhalese and Tamil communities. The second, from 1956 to 1972, responded to the Sinhalese Buddhist domination of national politics and was marked by a strengthening of federalist demands, backed by non-violent protest and

civil disobedience. The adoption of the republican constitution in 1972, which entrenched Sinhala Buddhist ideology, marked the third phase, when a new violent militancy became evident and the demand for a separate Tamil state was developed. From 1982, the fourth phase, 'the triumph of the militants and the delegitimation of moderate parliamentary opposition' became apparent.³² From 1983, armed conflict in the north and east escalated rapidly and since 1990 large parts of these areas have been outside the government's control.

Unable to influence parliamentary decision-making and to halt the 'Sinhalaization' of the state, Tamil politicians increasingly turned to acts of civil disobedience and non-violent protest (*satyagraha*). In the south, such actions often provoked 'counter civil disobedience' by Buddhist monks and other Sinhalese activists, sometimes resulting in violence against the demonstrators. In the view of some commentators, *satyagraha* heightened ethnic tensions.³³

In February 1961, the FP launched a civil disobedience campaign in the north and east to protest about the implementation of the Sinhala-only legislation. For several days protesters blocked access to the main administrative buildings in Jaffna and several other towns. The Prime Minister, Sirimavo Bandaranaike, declared a state of emergency and – for the first time – moved troops into the area to regain control. In April 1961, the FP escalated its protest with the launch of a 'Tamil Arasu (state) postal service', issuing its own stamps in the Jaffna District. This was quickly suppressed, and all FP MPs were detained for six months.³⁴ The security presence in the north intensified, with increased threats to personal liberty and security.

Tamil alienation

Opposition to the 1972 constitution strengthened alliances between Tamil political parties and organizations. In May 1972 the Tamil United Front (TUF) was formed, including both the main parties representing the Sri Lankan Tamils as well as the organizations representing Up Country Tamils. The TUF's demands expanded on those made earlier by the FP, but still fell short of calling for secession. It was not until May 1976 when the Tamil United Liberation Front (TULF) was formed that a separate Tamil state, to be 'the free, sovereign, secular, socialist state of Tamil Eelam based on the right to self-determination inherent to every nation', was demanded. Tamils had become increasingly alienated from the state, as prior grievances had not been addressed. As listed by the TULF these included: the removal of citizenship and the franchise from the Up Country Tamils; state-sponsored colonization of Tamil areas; the adoption of Sinhala as the official language of the state; the status accorded to Buddhism within the state; inequality of opportunity for Tamil people in employment, education, land and economic life in general, including the denial of benefits of large development schemes; communal violence, and state terror and violence against Tamil people; imprisonment and torture of Tamil youths without trial, and on flimsy grounds; and the imposition of the 1972 constitution.

Campaigning on this separatist platform, the TULF won an overwhelming majority in the north in the 1977

parliamentary elections, as well as a simple majority in the east, and the UNP won a huge majority in the south. Most Tamil voters in the south supported the UNP, which had devoted a section of its manifesto to 'Problems of the Tamil-speaking People', and promised to hold a major conference on the subject. Following the elections, the TULF formed the official opposition in parliament, the first time that a Tamil party had held this position.

The TULF remained formally committed to pursuing its objectives through parliamentary means. It did not participate in the Parliamentary Select Committee on Constitutional Reform which Prime Minister Jayawardene appointed to draft the 1978 constitution, which introduced a powerful executive presidency. It did, however, participate in the Presidential Commission which was appointed in August 1979 on decentralizing the administration through District Development Councils (DDCs), while also saying that DDCs would not be a final solution to the demand for Tamil Eelam.

The District Development Councils Act was passed in August 1980, and the DDC elections were held in July 1981. Yet this attempt at decentralization was another failure. In the north, these elections were marred by violence, and the TULF won in all predominantly Tamil districts. Yet theirs was a hollow victory: the government demonstrated no genuine commitment to decentralize; there were complaints that the councils were inadequately funded, had inadequate powers to initiate important development projects, and were subject to unwarranted government interference.

The start of armed Tamil militancy

While the TULF continued to participate in parliamentary politics, others questioned the value of such an approach as their distrust of the main southern political parties deepened. In addition, the security of Tamil people living in the south, including for the first time the Up Country Tamil population, was increasingly threatened: the violence against Tamils in the last two weeks of August 1977 after the general election, left hundreds dead. Tens of thousands were displaced, and their homes and property in the south looted and burned.

The militants who took up arms in the 1970s started by assassinating Tamils associated with the ruling party. Later, they also began to attack state targets. Various small groups were formed, including what became the LTTE.³⁵ In 1975 it claimed responsibility for the first political assassination by Tamil militants: the killing of Alfred Duraiyappa, the Tamil Mayor of Jaffna, and supporter of Prime Minister Sirimavo Bandaranaike.

The government response

The government responded to these developments by strengthening security in the north, and by granting enhanced powers to the security forces. Under Sirimavo Bandaranaike, the north was ruled under a state of emer-

gency from April 1961 to April 1963, and states of emergency were imposed intermittently in the following years.³⁶ When Amnesty International delegates visited Sri Lanka in January 1975, there were 42 young Tamil men who had been detained without trial under emergency regulations for between one and two and a half years.³⁷

Prevention of Terrorism Act

In April 1978, after the LTTE had killed Police Inspector Bastiampillai and two others, the UNP government under J.R. Jayawardene hurriedly passed a law to proscribe the LTTE and ‘other similar organizations’.³⁸ In July 1979, the Prevention of Terrorism Act (PTA) was enacted, originally to remain in force for three years, but amended in 1982 to become a permanent law. The PTA gives broad powers of arrest and detention to the security forces and suspends important legal safeguards normally provided under the constitution, facilitating wide-ranging violations of human rights. It permits people to be detained on renewable administrative orders for up to 18 months without any judicial review. It covers a broad range of offences, many of which were already crimes under the ordinary criminal law. Among its many defects are that it can be applied retroactively, provides no safeguards on conditions of detention, removes certain safeguards against torture or other forms of duress being used to extract evidence from prisoners, empowers the relevant minister to impose restrictions on a suspect’s movement, and permits the minister to prohibit a suspect from addressing public meetings for up to 18 months.

The enactment of the PTA together with the declaration of a state of emergency in the north in July 1979 marked a new phase in security forces operations in the north and fuelled further support for the militants. In mid-1979, the mutilated bodies of two young Tamil men, who had been arrested by police the day before, were found near a bridge. Three further young men who had also been arrested that day disappeared in custody. Another died in hospital from injuries apparently sustained in custody. The report of a Parliamentary Select Committee appointed to investigate the disappearances, which was not made public for four years, concluded that in at least two of the cases there was considerable evidence that the men had been in police custody. These disappearances were the first recorded in the history of the modern ethnic conflict, and no effective action was taken to apprehend those responsible. Indeed, one of the police officers named in the inquest into one victim’s death was later promoted. At this stage, disappearances were an isolated phenomenon; five years later, they would begin to form part of the government’s counter-insurgency methods.

Escalation of the conflict

The 1981 DDC elections marked further increased tension. The SLFP boycotted the elections, and the UNP fielded Tamil candidates against the TULF in the north and east. The LTTE killed several government supporters, including the leading UNP candidate in Jaffna, and police officers. While two government ministers were campaigning in Jaffna, the police went on the rampage,

killing several people and destroying the market area, homes, a Tamil newspaper office, the TULF headquarters and – most notoriously – the public library. The burning of the Jaffna library, containing some 95,000 volumes and manuscripts, assumed particular significance as a deliberate attack by officers of the state on Sri Lankan Tamil history and culture.

Armed militancy had grown gradually in the 1970s and early 1980s, with increased numbers of attacks on banks and other targets. It escalated, however, after the violence of July 1983, which marked a turning point in the scale of conflict and is taken by some writers as marking the start of the present-day war. On 23 July 1983, the LTTE ambushed and killed 13 soldiers on patrol near Jaffna. Retaliatory violence against Tamils living in Colombo and other parts of the south broke out on an unprecedented level. Hundreds of people were killed; thousands of homes and businesses were destroyed. The evidence of official involvement in these attacks was particularly chilling:

Members of the police and armed forces had stood by and allowed attacks to be made on the Tamil people. Even worse, in some cases they had actively participated in the attacks. (...) Gangs were transported from outside the districts. They had electoral lists with them from which Tamil houses, shops and addresses were identified.³⁹

Despite receiving clear messages about the gravity of the situation, President J.R. Jayawardene delayed imposing a curfew to contain the violence. Not one member of the government made appeals for calm or condemned the violence. Instead, they blamed the Tamil militants, whose killing of 13 soldiers in the north had ‘triggered’ reprisal attacks against Tamils living in the south. The systematic attacks on Tamil households and businesses in the south was presented by the authorities as an understandable ‘reaction’ of the Sinhalese.⁴⁰ In Welikade Prison, 52 Tamil prisoners were killed on successive days by Sinhalese inmates with the apparent complicity, at least, of prison staff. In the north, security forces killed unarmed Tamil civilians at random, apparently in retaliation for the deaths of their colleagues. The allegations of official involvement in the above attacks were never investigated.

The following month, a constitutional amendment was passed which banned even the peaceful advocacy of separatism. The government hoped to appease perpetrators of the violence in the south by prohibiting further ‘provocative’ advocacy of separatism. One outcome was that all members of the TULF forfeited their parliamentary seats when they refused to take the oath required under the amendment, which requires a commitment to uphold and defend the present constitution, and not to support, promote or espouse the establishment of a separate state within Sri Lanka’s territory.

After the violence of July 1983, the number of armed militant groups proliferated and recruitment to these organizations increased dramatically. They based themselves in Tamil Nadu, south India, where they had found safe haven in previous years, and received the support of the state government. The government of India provided tacit support, and participated in arming and training militants.⁴¹

Increased militancy both responded to, and was again

met with, growing ferocity by the security forces, whose powers had been enhanced both by the PTA and emergency regulations, but who also often acted completely outside the law. Arbitrary killings by the security forces of Tamil civilians became commonplace. Sometimes scores of people were killed in the vicinity of an attack by militants on soldiers or police. The militants too, and particularly the LTTE, began to attack Sinhalese civilians, sometimes killing large numbers at a time.

In 1984, a new phenomenon developed as part of the security forces' tactics: thousands of young Tamil men were detained by the security forces, and while many were transported to detention camps in the south, large numbers began to disappear in custody. Despite numerous witnesses to their arrests, and relatives repeatedly requesting information from the security forces, the authorities denied all knowledge and most were never seen again. They are presumed to have been tortured, killed and secretly disposed of. Indeed, released prisoners had sometimes witnessed such acts.⁴² Emergency regulations in force at various times facilitated the commission of such violations with impunity; prisoners could be held for long periods incommunicado, and with no judicial scrutiny of their detention, and at times the security forces have been permitted to burn bodies without post-mortem or inquest, enabling them to destroy possible evidence of torture and extrajudicial killings. As Tamil youths became increasingly vulnerable to gross abuses by the security forces solely because of their ethnicity, more and more took to arms.

By mid-1985, the armed militants had gained the upper hand in the Jaffna peninsula. However, they tolerated no dissent within the Tamil community, appearing to depend upon intimidation and killing to maintain their hold. Their killings included such people as a leading school principal and member of the Jaffna Citizens' Committee, Mr Anandarajah, who had organized a cricket match between Jaffna schools and the Sri Lanka Army during a ceasefire in 1985.⁴³ Relations between the militant groups themselves were far from harmonious. In mid-1986, the LTTE attacked and killed hundreds of members of the Tamil Eelam Liberation Organization (TELO), as well as its leader. Shortly afterwards, a similar fate was meted out to scores of Eelam People's Revolutionary Liberation Front (EPRLF) cadres. Thereafter, the LTTE did not allow political parties or other Tamil groups to operate in areas under its control.

Indian intervention and the Indo-Sri Lanka Accord

The Indian government made several attempts to broker a peace in Sri Lanka during the 1980s. In July and August 1985 talks were held at Thimpu, Bhutan, at the insistence of the Indian government. The Sri Lankan and Indian governments, together with a joint Tamil delegation comprising members of five militant groups and the TULF, participated, but the meeting failed to reach agreement and the Tamil delegates walked out.

Indian intervention culminated in the Indo-Sri Lanka Accord of July 1987. It appeared to go some way towards

addressing Tamil grievances. While agreeing to 'preserve the unity, sovereignty and territorial integrity' of Sri Lanka, it also defined the country as a 'multi-ethnic and multi-lingual plural society' in which each ethnic group has a distinct cultural and linguistic identity which needs careful nurture. It conceded that the Northern and Eastern Provinces were areas of 'historical habitation of Sri Lankan Tamil-speaking peoples' together with others, and provided for the creation of new, elected provincial councils island-wide, with devolved powers from the centre. The Northern and Eastern Provinces would be temporarily merged into one provincial unit, pending the outcome of a referendum to be held in the east alone on whether the merger should continue. The Accord also offered a tentative advance on the status of Tamil: it defined 'the official language' as Sinhala, but said that Tamil and English 'will also be official languages'. The Accord promised a cessation of hostilities and surrender of arms by the militant groups, and a return to normal law-enforcement methods in the north and east. It also promised a lifting of the emergency in the north and east by mid-August 1987 and a general amnesty to all prisoners detained, charged or convicted under the PTA and the emergency regulations. In addition, an Indian Peace Keeping Force (IPKF) could be invited to enforce the cessation of hostilities by the Sri Lankan president.

The militant groups who were party to the conflict with the Sri Lankan state were not party to the Accord, although they had been involved in earlier discussions. The LTTE refused to accept the Accord, LTTE leader, V. Prabhakaran, describing it as 'a stab in the back of the Tamils'.⁴⁴

The IPKF arrived in the north and east on 30 July 1987 and stayed until March 1990. It was drawn into conflict to an extent that had not been anticipated, and its reputation was soon tarnished by reports of disappearances, killings and other human rights violations committed by its members.⁴⁵ Where once India had provided the LTTE and other Tamil groups with a haven and resources, Indian troops were now engaged in battle with the LTTE. The other militant groups, however, allied with the IPKF against the LTTE.

In order to implement the Accord, the thirteenth amendment to the constitution was passed on 14 November 1987. It redefined the official languages of the country, making Tamil 'also' an official language and English 'the link language', and provided for provincial councils. Elections to the newly-formed Northeastern Provincial Council were held in November 1988, and the EPRLF won control of the Council. Yet the Council had a short life: it was dissolved in 1990 soon after the IPKF had left the island.

When the Accord was signed, most Tamil groups and parties believed that the Councils would be given considerably greater powers than they were granted. They complained that under the thirteenth amendment, the centre retained too great a control, that the extent of powers was unclear, and that the necessary resources had not been made available. In September 1989 the EPRLF concluded that 'the government of Sri Lanka will not voluntarily devolve power in respect of functions, staff and funds to the Province.' Yet again, an exercise in devolution had failed.



Impact of the Accord in the south

The Indo-Sri Lanka Accord, and the arrival of Indian troops in the north and east, was interpreted by nationalists in the south as a breach of national sovereignty and a threat to the integrity of the island. The Indian intervention fuelled historical fears in the south of Indian imperialist intent, and there was considerable opposition to it in the south. The Janatha Vimukthi Peramuna (People's Liberation Front – JVP) had by then begun to mobilize. The Accord provided it with an emotive focal point. In 1987 it began an armed insurgency particularly targeting members and supporters of the government, as well as opposition groups and other individuals which supported the Accord. The insurgency escalated rapidly, becoming increasingly violent and posing a growing threat to the country's economy, with the JVP calling strikes and stoppages and threatening those who disobeyed with death. The government moved the army into the south and met the JVP's ferocity with an even greater brutality of its own. Employing tactics of counter-terror, plain-clothed 'death squads' appeared in unmarked vehicles, taking people from their homes, often at night, never to appear again. Increasing numbers of mutilated and burned bodies appeared by roadsides and in rivers, the presumed victims of the counter-insurgency. Tens of thousands were killed or disappeared. By the end of 1989 all but one member of the JVP leadership had been captured and killed, and the southern insurgency came to an end.⁴⁶

The withdrawal of Indian troops and 'Eelam War II'

At the end of 1988 a new president was elected. Although of the same party as his predecessor, Ranasinghe Premadasa had always opposed the Accord. While India expressed its intention to remain in the north and east until the Accord was properly implemented, President Premadasa was determined to see the IPKF leave. This was finally agreed in July 1989.

In April 1989, Premadasa had entered into negotiations with the LTTE. No official minutes or notes were kept of these meetings, but clearly the common cause between the two sides was the removal of the IPKF. The government is widely believed to have provided the LTTE with arms in this period to use against the IPKF and to have agreed that, following the withdrawal of the IPKF, the LTTE would be responsible for law and order in the north and east until elections could be held to the Provincial Council. They also agreed to confine government troops to barracks. The LTTE was to have *de facto* control of the north and east in this period.

After September 1989 when the Indian government began to withdraw its troops, the LTTE moved in quickly to take control. The IPKF had assisted in the recruitment – often forcibly – and training of thousands of young men and women into a 'Tamil National Army' (TNA) in anticipa-

pation of its withdrawal. But this was inadequate to meet the LTTE threat. As the IPKF withdrew, there was heavy loss of life in battles between the LTTE and the TNA and between the LTTE and other armed Tamil groups, as the LTTE took control of all areas vacated by Indian troops. Thousands of members and supporters of Tamil groups which had supported the Accord and fought the LTTE fled to India.

While the IPKF was deployed in Sri Lanka, the LTTE committed numerous abuses, including widespread killings of Sinhalese and Muslim villagers, as well as of Tamils suspected of opposing or informing against them. Political assassinations claimed by the LTTE were not confined to the north and east. In July 1989, the leader of the TULF, A. Amirthalingam, and another senior TULF leader, V. Yogeswaran, were killed by the LTTE in Colombo.

Negotiations between the government and the LTTE broke down after the IPKF left. Among other things, the LTTE had wanted the government to repeal the sixth amendment to the constitution which had outlawed the advocacy of secession; the government had claimed that it could not do so because of resistance from the opposition. In addition, the government had convened an all party conference in the south to discuss solutions to the increasing violence, and had entered into dialogue with other Tamil parties. The LTTE resented this, asserting that they should be treated as the sole spokespersons for the Tamil community. In June 1990 the LTTE broke the ceasefire and attacked police posts in the east, killing numerous police officers and taking many others captive. This marked the beginning of what came to be known as 'Eelam War II'.

With the southern counter-insurgency operations completed, the military was swiftly moved back into the east after these attacks to regain territory from the LTTE. In the first months of the war they employed tactics similar to those they had recently used in the south: thousands of people were killed and disappeared in custody as the army sought to take, and consolidate control over, the main towns and communication routes in the east and in Vavuniya and Mannar. Many people were taken from their homes by the military never to be seen again. Young men were particularly vulnerable to being killed or disappearing in custody; but older men and women, young women, children and babies were also among the victims. Even refugee camps provided no secure place of refuge: in several instances, well over 100 people at a time were taken by the military from the camps and could never be traced again. Burnt and mutilated bodies were displayed on the streets; unmarked vehicles roamed the towns, their occupants abducting people at will.

In the north, Jaffna came under siege with the renewal of war. Some 240 government police officers and soldiers were trapped in Jaffna Fort, surrounded by the LTTE. On 25 June 1990, the government embarked on a lengthy campaign, dropping bombs, shells, mortars and grenades on the city. The assault lasted 107 days. Given the scale of the military operation, civilian casualties were low as most people fled. However, extensive damage was done to property.

In 1991, an embargo was imposed on the passage of

numerous items to the north, including medical supplies, fuel and fertilizers. Even soap and sanitary towels were banned. Food supplies for the people on the peninsula became severely limited, and the government failed to send adequate food shipments, despite numerous appeals from non-governmental organizations and the Jaffna Citizens' Committee.⁴⁷

From June 1990 onwards, members of the militant groups which had supported the Accord, with the exception of the EPRLF, allied with government forces in their military campaign against the LTTE in the north and east. The military consolidated its control over the main towns in the east within the first few months of 'Eelam War II', as well as over the main roads between them. The north, however, remained under LTTE control, and large areas of the north and east remained caught between the two sides.

Political assassinations attributed to the LTTE continued throughout this period. An EPRLF MP was killed in Colombo in May 1990, and in June 1990, 14 EPRLF central committee members were murdered in Madras, India. The following year, government leaders were targeted, with the assassinations of Sri Lankan State Minister of Defence, Ranjan Wijeratne in March 1991 and of Indian Prime Minister Rajiv Gandhi by a suicide bomber in September 1991. Such assassinations would continue: President Premadasa was killed in Colombo on 1 May 1993 by a suicide bomber. Other prominent political leaders whose murders have been attributed to the LTTE include L. Athulathmudali, leader of the opposition Democratic United National Front, (DUNF) and G. Dissanayake, who was killed while campaigning as the UNP's presidential candidate during the November 1994 election campaign.

Failed attempts at finding a political solution

In 1991, President Premadasa created a Parliamentary Select Committee to seek a political solution to the hostilities. The LTTE were not involved in these deliberations, but other Tamil parties were. The Select Committee continued its work until 1993. Although progress was made on the extent of powers to be devolved, the main stumbling block remained the issue of the unit of devolution. No consensus could be reached on whether the north and east would remain merged, as had been provided under the Indo-Sri Lanka Accord. The Tamil parties withdrew from the Select Committee when the other members agreed on separate provincial councils for the north and east, so this exercise again ended in failure.⁴⁸

After President Premadasa was assassinated on 1 May 1993, Prime Minister Dingiri Banda Wijetunga took over as President for the remainder of the presidential term. He took no initiatives to find a political solution to the conflict. To the consternation of many concerned with minority rights, he repeatedly expressed the view that there was 'no ethnic problem' in Sri Lanka; he believed the country suffered only from a 'terrorist' problem, which required a military solution.

The cessation of hostilities of 1995 and 'Eelam War III'

Parliamentary elections in August 1994 were narrowly won by the newly-formed People's Alliance (PA) under the leadership of Chandrika Kumaratunga of the SLFP, daughter of previous prime ministers S.W.R.D. and Sirimavo Bandaranaike. Thus ended some 17 years of rule by the UNP; there was considerable optimism. The PA promised to negotiate a just peace which would safeguard the rights of all communities, and to introduce substantial constitutional reforms. For three months, Chandrika Kumaratunga was Prime Minister, while Wijetunga remained in office as President. During this period, Kumaratunga's government relaxed controls on the movement of restricted items to the north, and released several Tamil prisoners who had been detained without charge. The LTTE also released a number of police officers they had held captive. One round of preliminary talks was held between government and LTTE representatives, but further meetings were halted when the leader of the opposition and UNP presidential candidate G. Dissanayake and over 50 others were killed by a suicide bomber at an election rally just two weeks before the presidential election.

Chandrika Kumaratunga won a massive victory with an unprecedented 62 per cent of the vote in November 1994, standing against the new UNP candidate, Dissanayake's widow, Srima. Kumaratunga's overwhelming victory, which included strong support from Muslims, Tamils and Sinhalese, was widely interpreted as reflecting the strong public desire for peace. As President, Kumaratunga immediately announced her intention to resume the quest for negotiated settlement with the LTTE.

On 8 January 1995 the government and LTTE agreed upon a 'cessation of hostilities'. However, talks stalled later that month with the two parties unable to agree either an agenda or dates for the fourth round. Considerable distrust was evident on both sides. The fourth round did not take place until April. Meanwhile, the LTTE set a deadline for the government to implement its four demands: the lifting of the embargo on the north on items without military significance, the lifting of restrictions on fishing, the removal of the army camp at Pooneryn and freedom for LTTE cadres to carry weapons in the east. The LTTE was not satisfied with the government's response. It sent a letter to the President announcing its withdrawal from negotiations and from the cessation of hostilities, and blew up two naval ships in Trincomalee harbour.⁴⁹ This attack was followed by others on police and army camps in the east, and on 30 April the LTTE shot down an airforce plane over Jaffna with its first use of an anti-aircraft missile, killing all 52 people on board. (The defence authorities maintained that an aircraft that had crashed the previous day had not been hit by a missile, but had suffered technical faults.)⁵⁰ 'Eelam War III' had begun.

On the night of 25–26 May 1995, the first deliberate attack on civilians in 'Eelam War III' was committed, when the LTTE attacked the residents of Kallarawa, a Sinhalese village in Trincomalee District, killing at least 42

people. On 26 May, a prominent Buddhist monk living at Dimbulagala in Polonnaruwa District was assassinated, apparently by the LTTE. He had been an outspoken critic of the LTTE and an ardent supporter of Sinhalese colonization of the area.

As hostilities continued, reports began to come in of extrajudicial killings and disappearances committed by government forces. These were at considerably lower levels than had been the case in the first months of 'Eelam War II', but were high enough to warrant serious attention. Amnesty International received reports of at least a dozen extrajudicial executions of civilians in May 1995 alone, in addition to several cases of disappearance in the custody of government forces.⁵¹ Some commentators noted that, compared to earlier years, the service chiefs at local level, and the government at presidential level, were more responsive to complaints about such violations, ordering investigations and taking disciplinary action.⁵² The embargo on the north was reimposed.

In July, government forces launched a major military offensive to take Jaffna city which was achieved by early December. The LTTE abandoned the city and almost the entire population of the city fled. Estimates of the numbers displaced ranged from the government's conservative 100,000 to the LTTE's 500,000. Censorship on the reporting of the actions of government forces was imposed on the local media in September and lifted only after the main offensive was over. No journalists were permitted into the areas of conflict. Therefore, there was no independent coverage of the conduct of the war, of the numbers of civilians displaced by the conflict, nor the conditions under which they were living.

The August 1995 proposals for devolution

While war continued in the north and east, in August 1995 President Kumaratunga announced her government's proposals for a new system of devolution to eight regions which would include extensive legislative and fiscal powers. This proposal had not been discussed with the LTTE, and was presented to the public in the hope of reaching a consensus with other parties. Under this proposal, Sri Lanka would be defined as a 'union of regions', each of which would have considerable powers, including law and order, land settlement, and education. Regional Councils would have powers to raise taxes, as well as to raise finance from overseas. Unlike the system of devolution created under the Indo-Sri Lanka Accord, these proposals contained no concurrent list of powers. In January 1996, the government placed the proposals before the Parliamentary Select Committee which it had established in 1994 to recommend revisions to the constitution. They had been amended slightly to answer opposition criticism. To be passed, they would require a two-thirds majority in parliament as well as a national referendum and could be subject to further changes.

Muslims and conflict in the east

Of Sri Lanka's total Muslim population, over one-third live in the north and east, and of these the majority live in the east. Most eastern Muslims are agriculturalists or landless labourers. The rest of the Muslim population is dispersed throughout the island's urban centres. Until recently, Muslim politics was dominated by a leadership from the largely mercantile Muslim community in Colombo who shared few interests with the eastern Muslim population.

In the 1950s and 1960s, the FP fielded Muslim candidates in parliamentary elections. However, Muslims elected on the FP ticket later changed their party allegiance, joining the mainly Sinhalese southern parties (the UNP or the SLFP) instead. They supported the major initiatives introduced by these parties, including those which Tamils saw as militating against their interests, such as the Ceylon Citizenship Bill, the Official Language Act and the introduction of standardization for university entrance.⁵³ The Muslim leadership trod a fine path between the increasingly polarized Sinhalese and Tamil parties.

The shift in Tamil politics from a demand for federalism – which could have incorporated distinct Muslim interests in the east – to a demand for a separate state had a major effect on Tamil-Muslim political relations. Until the late 1980s, Tamil political parties and militant groups claimed to act on behalf of all Tamil-speaking peoples, including Muslims, and sought to incorporate Muslims into their definition of 'Tamil'. The LTTE went further, defining Muslims as 'Islamic Tamils', and in the 1980s several Muslim youths were recruited by Tamil militant groups. The attempt by Tamil parties and groups to encompass Muslims within their domain, however, was not generally successful. The Tamil leadership did little to seriously address the differing needs and interests of the island's various Muslim communities. Instead, they tried to impose their own concerns and interests on Muslims.

The Muslim leadership retained a separate political and ethnic identity, with religion rather than language as its primary marker, and continued to ally itself with the mainstream political parties in the south. However, this leadership mainly represented the interests of southern Muslims who were mostly businesspeople, artisans and urban workers. Until the 1980s, when the Sri Lanka Muslim Congress (SLMC) was formed under the leadership of M.H.M. Ashraff, the Muslims of the east had no distinct voice in national politics. This was despite Muslims in the east having become increasingly drawn into the conflict in the 1980s and 1990s. Caught between the two sides, they began to fall victim to numerous attacks by the LTTE.

In 1985 militants killed some Muslims in Mannar suspected of having passed information on militant activities to the security forces. There followed a wave of clashes in the east, with large numbers of people killed on both sides.⁵⁴ These were among the first of a series of attacks on Muslims. After the LTTE attacked police stations in the east in June 1990, reopening armed hostilities with the government, Muslims were among those targeted by the LTTE, as alleged IPKF collaborators, and many were

killed. The LTTE attitude to Muslims had evidently changed: they were now seen as a threat to the Tamil cause, rather than part of it.

With their security increasingly threatened, militancy within the Muslim community increased. The government responded by creating an armed civil defence force, the Muslim Home Guard. This did little to abate the rising spiral of violence. Indeed, the creation of the Home Guard without the implementation of adequate safeguards may have exacerbated tensions in the east. Numerous instances were reported of abuses committed by the Home Guard, including widespread killings of Tamil villagers in reprisal for killings of Muslims by the LTTE.⁵⁵

Hundreds of Muslims have been killed in attacks attributed to the LTTE in the east, including some 140 Muslim worshippers at the mosque in Kattankudy in August 1990. The distrust between the Tamil and Muslim communities in the east is such that in recent years, Muslims living in villages outside Batticaloa only travel on the days when the security forces place pickets along the main roads, fearing that if they travel on days when no security is provided they could be lynched.

As the violence escalated, the status of Muslims living in LTTE-controlled areas of the north was called into question. In October 1990 all Muslims living in the Jaffna, Mullaitivu, Kilinochchi and Mannar districts were ordered by the LTTE to leave the area or be killed. Leaving their property behind, which was then looted, some 120,000 people fled south. Some were able to join kinspeople in the south, but several thousands went to refugee camps, where many still remain. The LTTE has since said that its policy towards the Muslims living in the north was 'a mistake' and that they can return home 'once normalcy is restored'.⁵⁶ This has done nothing to alleviate their current plight.

The main demand of the SLMC at its inception was for a separate Regional Council for Muslims in the east in order to protect their interests, security and identity. Other proposals have included the sharing of power in an autonomous Regional Council for the north and east, but with the addition of a Territorial Council for certain specified areas to satisfy the aspirations of the Muslim community. Safeguards would also have to be provided for the Sinhalese in the east in the context of regional autonomy.

The SLMC entered parliament in 1989 with four seats. In the 1994 parliamentary election it won six seats, to which a seventh was added from the national list. The SLMC gave its support to the PA in forming a government, and SLMC leader Ashraff became Minister of Shipping, Ports, Rehabilitation and Reconstruction in the new government. The proposal for devolution to eight Regional Councils proposed by President Kumaratunga in August 1995 was reported to have been welcomed by Ashraff, as well as by the leaders of most Tamil political parties.



Minority participation in development

The UN Declaration on Minority Rights requires that 'states should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country' (Article 4[5]).

Socio-economic rights

A major grievance underlying the ethnic conflict in Sri Lanka has been the perception by minorities that they have been excluded from the benefits of development. This has been most strongly expressed by the Sri Lankan Tamil leadership, but has also been true for members of other minorities, most notably the Up Country Tamils. In this report, minority participation in development will be assessed by looking at the extent to which certain social and economic rights have been realized by different ethnic groups in Sri Lanka. It should be remembered, however, that gross figures relating to ethnic groups may mask wide disparities within each group, based on regional variations, gender, and, on disparities between urban, plantation and rural populations. Indeed, recent research on poverty in Sri Lanka has shown that 'there has been a dramatic widening of the wealth gap in the post-1977 period and ... [a] significant increase in relative poverty in Sri Lanka post-1977'.⁵⁷ These developments are not shown to be confined to any particular ethnic group.

The UN Declaration on Minority Rights also requires that national policies and programmes, as well as programmes of cooperation and assistance among states, 'should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities' (Articles 5[1] and 5[2]). These provisions are important in considering the concern of Tamil parties that major development projects, funded by international donors, have not benefited the north and east. In 1976, for example, TULF leader A. Amirthalingam complained that not one northern or eastern district was included among those designated for 'Integrated District Development Programmes'.⁵⁸

Major government-sponsored irrigation and settlement schemes in the dry zone, including in the north and east, have been seen by Tamil parties as deliberate attempts by successive Sinhalese governments to relocate Sinhalese settlers from the central, southern and south-western areas of the island to traditionally Tamil areas. These schemes were feared to be altering the demographic balance of these areas and to undermine both the security and political voice of the Tamil population. Settlers were

reported to have been involved in repeated outbreaks of violence against Tamils. Land settlement, or 'colonization' of the dry zone, together with powers over land allocation, remain major issues between Tamil parties and the state.

The civil war has had a major detrimental effect on the lives of all peoples in the areas of conflict. People living in the north (under LTTE control) have suffered additional problems resulting from the economic blockade imposed by the government in August 1991,⁵⁹ which included medicines, fertilizers, chemicals and fuel. Electricity to the north was cut off in June 1990, and telecommunications were cut in 1986. Although the blockade only formally applied to the north, the military has at times prevented the passage of some items to parts of the east as well.

The blockade worsened the already grave effects of the war on health and educational provision in the north. Agriculture has suffered from lack of fuel to run tractors and lack of fertilizers; industries have closed because of the lack of electricity; fishing from northern waters has been restricted or banned by the government, purportedly for security reasons.

Extensive bombing and shelling of the Jaffna peninsula at various times in the course of the war has resulted in massive destruction. A report published in November 1991,⁶⁰ commissioned by the Jaffna Municipal Council, assessed the damage inflicted in and around the city following the resumption of war between the LTTE and the government in June 1990. As previously mentioned, most civilians had evacuated their homes, so civilian casualties were low. The physical damage inflicted on the city, however, would cost an estimated £50 million to repair. Furthermore, the ban on the transport of cement and certain other building materials to the north made the reconstruction of homes and other buildings all the more difficult.

Outside the context of the civil war, the Up Country Tamils have been the most disadvantaged ethnic minority in the country. They have long been housed and worked in poor conditions and had less opportunity than others of improving their situation. In addition, despite having a quite different history in Sri Lanka from the Sri Lankan Tamil community and little connection with the separatist Tamil movement, since the 1970s they have been vulnerable to attack.

The role of the state

The first three decades after independence were marked by a steady growth of public sector economic activities together with increasing controls on the private

sector.⁶¹ Despite the liberalization of the economy by the UNP government after 1977, the state has continued to be the key player in major sectors of the economy, and has extended considerable influence over most people's daily lives. According to figures collated by Pieris, in the late 1980s, some 33 per cent of the workforce were employed in the public sector; 25–30 per cent of the population lived on land allotted through government-sponsored schemes; education and (to a lesser extent) health care were almost exclusively provided by government; and about 40–45 per cent of people occupied houses either built or owned by the government, or built with its assistance. Several major manufacturing and service industries were under substantial government control, and some were government monopolies.

The deep politicization of the administration and the economy has meant that access to land, housing and jobs, for example, depended upon the patronage of the party in power. Given that the Sinhalese constitute such a clear majority, the two main political parties – the UNP and the SLFP – have only rarely needed to give serious concern to the minority vote and have concentrated instead on winning over Sinhalese voters. The extensive centralization of power in the new office of the Executive President from 1978, together with the massive parliamentary majority enjoyed by the UNP following the 1977 election, enabled it to alter the constitution at will and contributed to the erosion of democracy. The political process, which had anyway marginalized minorities, excluded certain minority interests altogether after the 1983 constitutional amendment which banned advocacy of separatism. The politicization of the economy was also a significant factor in the recent JVP insurgency in the south.

Following the August 1994 parliamentary election, the PA's stated commitment to addressing minority grievances, together with the fact that it held just a one seat majority, may have helped ensure a stronger voice in government for political parties representing ethnic minority interests, both Tamil (including Up Country Tamil) and Muslim. The PA's August 1995 proposals for devolution of substantial legislative and fiscal powers to eight Regional Councils, if actually implemented, would bring an end to the highly centralized political structures, dominated by the majority Sinhalese community. The proposal that Regional Councils would have powers to raise overseas funds for development purposes themselves is particularly important in this respect.

Development and dry zone settlement schemes

The opening up of the dry zone through new irrigation projects began under British colonial rule. These areas were very sparsely populated, but included regions in North Central Province which had once been home to the capital cities of Sri Lanka's ancient hydraulic civilization, represented in nationalist histories as the golden age of Sinhalese Buddhist civilization. After independence the government settled poor Sinhalese farmers from the densely-populated wet zone areas of the island (the cen-

tral, southern and south-western parts) in these and other newly reclaimed areas in the north and east. Because of the historical importance of the dry zone to Sinhalese Buddhists, the idea quickly took hold that dry zone colonization represented the reclamation and recreation in the present of the glorious Sinhalese Buddhist past. The colonization schemes thus quickly became incorporated into Sinhalese nationalist visions of the future.

To Tamils, however, this colonization constituted a threat to their 'traditional homeland'. State-sponsored resettlement of Sinhalese farmers in the north and east appeared a deliberate effort to further marginalize minorities by reducing their numerical dominance in the area. Even before independence, the CTC had complained about Sinhalese settlement in the Northern and Eastern Provinces, and colonization remained a major issue for the FP from its inception in 1949. In August 1956 the party demanded the 'immediate cessation of colonizing the traditionally Tamil-speaking areas with Sinhalese people'.⁶²

Tamil fears about colonization were in fact recognized in the Bandaranaike-Chelvanayakam Pact, in which Prime Minister Bandaranaike said:

The instrument of colonization should not be used to convert the Northern and Eastern Provinces into Sinhalese majority areas or in any other manner to the detriment of the Tamil-speaking people of these areas'.

They also contained provisions on land settlement, and promised that Regional Councils would have powers to select allottees to whom lands in their area of authority should be alienated, and to select the personnel to work on such schemes. However, this would have excluded the area then administered by the Gal Oya Board in the east, the location of a major irrigation and settlement scheme.

Land and the Master Plan

Following the election in 1970 of the UF government under Sirimavo Bandaranaike, there was a change of land policy.⁶³ The UF government introduced major land reforms, nationalizing about one quarter of the agricultural land in the island. Instead of using colonization as a means to relieve unemployment and landlessness in the wet zone it hoped to use plantation employment and collective agriculture. The UF government planned no new colonization schemes, and, after completing its first component project, shelved the rest of the Water Resources Development Plan (also known as the Master Plan) which the UNP government had created in 1968. The Master Plan had envisaged that 900,000 acres of land would be irrigated over 30 years. Colonization remained high on the agenda of Tamil parties in the 1970s, however, coming second on the list of grievances listed in the TULF's Vaddukoddai Resolution in May 1976, which articulated the demand for a separate state of Tamil Eelam.

By 1976, colonization was not the only development issue being raised by the Tamil leadership. The state's development programme overall was being criticized because no major development work was being carried out by the state for the direct benefit of the Tamil popula-



tion. In 1976 TULF leader A. Amirthalingam complained in parliament that regarding economic development, 'the government has discriminated against Tamil areas and neglected them completely'.⁶⁴

When the UNP returned to power with a landslide victory in 1977 it revived the Master Plan for river development and said that it would implement it in six years.⁶⁵ This Accelerated Mahaveli Programme, which attracted massive foreign funding, was actually a scaled-down version of the Master Plan. Under the programme, four dams would be built and some 390,000 acres of land would be settled by 140,000 families, although in practice this number could not be settled within the six years. The land was mostly in Eastern Province. In addition to irrigation and land settlement, the programme also provided new and much needed power-generation plants.

The original 1968 Master Plan had included irrigation projects within Northern Province, none of which were included in this new Programme.⁶⁶ According to Pieris, the northern projects were not implemented because of geological constraints and their prohibitive expense.⁶⁷ Whatever the reasons, however, the perception among Tamils that the government was only really interested in the development of the Sinhalese majority areas was reinforced. This perception was further strengthened by the fact that government publications and official speeches about these projects repeatedly drew parallels between the current irrigation works and those built in ancient times by Sinhalese kings.

Following continuing representations from Tamil parties, in 1986 the government made some concessions towards allocating the remaining allotments under the Accelerated Mahaveli Programme according to the distribution of each ethnic group in the population. In total, this would have resulted in 82.8 per cent of allotments being made to Sinhalese settlers.

Significantly, the proposals for devolution to Regional Councils put forward by the PA government in August 1995 specified that land would be a subject devolved to the regions, and that state land within a region would be vested in the proposed Councils. The centre would be able to utilize state land within a region in consultation with the relevant Council and in accordance with procedures to be established by law. Inter-regional irrigation schemes – such as the Mahaveli Programme – would remain under the control of central government, however, and the relationship between these centrally-controlled schemes and land settlement was not spelt out.

The government's August 1995 proposals specified that Regional Councils would be able to negotiate foreign direct investment, international grants and development assistance, thereby enabling the regions to take control of their own development rather than remaining possible victims of continuing neglect from central government.

Right to employment: the state sector

There is no legal bar on the employment in the state sector of any group of Sri Lankan citizens. Non-citi-

zens, however, cannot be employed in this sector. For decades many Up Country Tamils were thus barred from state-sector employment. They were also frequently unable to find employment in the private sector, as many private institutions conformed to government policy.⁶⁸ Their lack of opportunity was further compounded by their statelessness; they could not obtain travel documents and seek employment abroad.

Although the 1978 constitution protects against discrimination, it also provides two caveats concerning language. First, if a position requires reasonable knowledge of a particular language, it is lawful to require that the language be learned within a reasonable period of time. Second, it is lawful to require sufficient knowledge of a language at the time of employment if the duties cannot be carried out without that knowledge. Although phrased in neutral terms, this terminology has been said to 'give wide discretion for abuse and serve as a tool of legitimized discrimination' in practice.⁶⁹

Figures on employment of minorities in the public sector for 1990 show that Tamil-speakers are poorly represented. Sri Lankan Tamil, Up Country Tamil and Muslim representation in the public sector is considerably below each group's national ethnic proportion.⁷⁰ Up Country Tamils are barely represented.

Employment of minorities

Ethnic group	% of population	% in state services	% in provincial services	% in semi-government services
Sri Lankan Tamil	12.7	5.9	7.1	8.2
Up Country Tamil	5.5	0.1	0.2	0.5
Muslim	7.37	2.0	4.6	1.0

The Sinhala-only policy of 1956, markedly reduced the access of Tamil-speakers to jobs in the public sector, and the increased competition for university entrance for Tamil-speakers introduced in the 1970s appeared to reduce their chances of entering the professions. Tamil recruitment to the General Clerical Service stood at c. 40.7 per cent in 1949. From 1978 to 1981 it fell to 5.4 per cent. On the recruitment of school teachers, the figures showed that no Tamil graduate teachers were recruited from 1977 to 1979, while 385 Sinhalese graduate teachers were recruited. In this period, about 6.1 per cent of the total number of teachers recruited were Tamil. The most marked increase in the intake of Sinhala-speakers was to the non-technical and administrative grades. Sinhalese recruitment to the Administrative Service, for example, had stood at 87.4 per cent in the period 1970 to 1977, and rose to 93.5 per cent in the period 1978 to 1981.⁷¹ Tamil-speakers felt this decline in their employment opportunities was a result of direct discrimination by the Sinhalese state. Many Sinhalese, however, believed that the growth in opportunities corrected an earlier unfair advantage that Tamils had enjoyed from colonial times.

Right to education

Article 27(h) of the Sri Lankan constitution has as its objective, 'the complete eradication of illiteracy and the assurance to all persons of the right to universal and equal access to education at all levels'.

Education in Sri Lanka is free (but not compulsory) at primary, secondary and tertiary levels. However, stateless persons were not entitled to free tertiary education. They were not eligible for government scholarships, nor could they usually obtain bank loans for their education (as the banks considered them bad risks, believing them unlikely to find employment after their education).⁷² Nearly all the island's children attend primary school, there is a good teacher-pupil ratio (at one teacher to 24 pupils) and a high rate of literacy, at 88 per cent in 1992. Despite these admirable figures nationally, there are considerable disparities in educational achievement and provision in different districts, and between the urban, rural and plantation sectors.

The educational disadvantage of the Up Country Tamil community was shown in 1981 census figures. These showed the Up Country Tamils as having the lowest literacy rate of any community, and Up Country Tamil women to have the lowest rate of all. However, various surveys since confirm that school enrolment and literacy rates of male and female Up Country Tamils have consistently risen, although no island-wide comparative figures are available.⁷³

Literacy rate by ethnic group and sex – 1981⁷⁴

Ethnic group	% in 1981		
	Males	Females	Total
Sinhalese	91.8	84.9	88.4
Sri Lankan Tamil	89.4	84.3	86.6
Up Country Tamil	78.6	55.2	66.9
Muslim	86.7	71.5	79.3
Malay	93.2	88.9	91.1
Burgher	98.2	96.1	97.1
Other	91.2	79.8	86.1

There is considerable regional variation in the supply of teachers. Statistics from 1991 show that the Northeastern Province had the greatest shortage of teachers per province with a 33.88 per cent shortfall. This is where the majority of the island's Tamils and a significant proportion of its Muslims live. This was followed by Uva and then Central Province, where the majority of estate schools are located.⁷⁵ Furthermore, over 2,000 teachers are said to have been forced to retire as a result of the war (i.e. 10 per cent of the Tamil teachers in the island as a whole). No financial incentive is offered by the government to encourage teachers to move to the north and east, although this was being considered by the PA government. Consequently, it has been

harder for the children of displaced communities who have resettled to gain access to education than it has for those who remain in refugee camps.⁷⁶

While the national teacher-pupil ratio is good, at 1:23 (according to the 1990 School Census), it is much worse in rural areas and in plantation schools. In the hill country estate schools it is 1:39, and in some rural areas, it is as high as 1:50. These discrepancies are further exacerbated by the quality of teachers available in different areas also varying widely. A considerably higher proportion of unqualified teachers work in the estate schools.⁷⁷ Attempts to address the heritage of disadvantage that is evident in the estate school sector have been made in recent years with the assistance of international development agencies.

In the north and east, the war has had a considerable impact on educational provision.⁷⁸ Hundreds of school buildings have been damaged by bombing, and the embargo to the north has meant students have suffered from a lack of school furniture, chemicals for science classes, writing paper, exercise books and school bags. The lack of electricity and limited fuel supply has made it difficult for Jaffna University to function properly. In addition, some schools have been commandeered by the armed forces.

Furthermore, the student population of the north is said to have fallen. Many youngsters – both male and female – have joined the LTTE sometimes reportedly under duress, thereby forsaking their schooling. Many schools in the north are closed, others suffer severe overcrowding.

Language and education

In theory the right to be educated in one's own language is protected in Sri Lanka. Article 21 (1) of the 1978 constitution entitles a person to be educated in either Sinhala or Tamil. Indeed by 1960 most secondary education was provided in Sinhala or Tamil, with children who were not vernacular-speakers allowed to be educated in English until 1972.⁷⁹ In practice, however, there are numerous complaints of 'the denigration of Tamil-medium education' in the south, with those most affected being Up Country Tamil and Muslim students.⁸⁰

Education falls under the control of the Provincial Councils. However, numerous instances have been reported of Councils in the south neglecting Tamil-medium education. For example, in 1990 over 1,000 Tamil-speaking students living between Koslanda and Wellawaya in Uva Province were said to be studying in Sinhala because there was no Tamil-medium school in the area. On some estates run by the Janatha Estates Development Board, there were complaints that only Sinhala-speaking women were employed at the child care centres, despite the availability of many unemployed Tamil-speaking women in the area. Muslim schools, too, were said to suffer from a shortage of trained teachers and poor facilities, with some Muslim students forced to study in Sinhala because of the lack of a Muslim school in their area.⁸¹

Related to concerns about the provision and quality of Tamil-medium education are complaints about the training opportunities offered to Tamil-medium teachers, and about the ability of the educational administration to handle work in the Tamil language. The Ceylon Tamil

Teachers' Union (CTTU), in a February 1995 memorandum to the Minister of Education, complained of discrimination against Tamil-speakers in the National Institute of Education (NIE), saying that the NIE did not employ sufficient Tamil officers to administer the work in the Tamil-medium and that it denied equal opportunities to Tamils and Muslims. Of 14 courses offered by the NIE, only three were available in the Tamil-medium, and only two were administered in the north and east. This contravenes the constitutional requirement that any course offered by a state-financed institution of higher education in one national language must also be offered in the other national language (Article 21[2]).⁸²

Health

There are considerable disparities in the quality of health service provision in urban and rural areas island-wide.⁸³ In 1979 the Up Country Tamils had the highest infant mortality rate per 1,000 live births at 92.5, compared to a rate of 34 among Sinhalese, 28.5 among Sri Lankan Tamils and 31.5 among Sri Lankan Muslims.⁸⁴ Up Country Tamils also had by far the highest crude death rates in 1979 at 10.9, compared to 6.2 for Sinhalese, 6.4 for Sri Lankan Tamils and 6.3 for Sri Lankan Muslims. There is a shortage of medical officers in the estate areas, and people living there often only have access to Registered Assistant Medical Practitioners.⁸⁵

The area where the health services have deteriorated most dramatically in recent years is the north. Jaffna once boasted one of the best health services on the island, but the situation has changed dramatically since the war. Many health facilities have suffered damage from bombing and shelling, and the embargo restricted the supply of medicines and medical equipment. Drugs for many serious disorders are either not available, or in short supply. Patients are reported to have died because of lack of medicine and lack of transport. The incidence of malnutrition, rabies, malaria, septicaemia, leprosy, cholera, tuberculosis, mental disorders, cancer and deafness (resulting from bombing) are all reported to have increased in the north and some parts of the east.⁸⁶ Insanitary conditions in refugee camps, damage to and neglect of sewage systems, and the ban on the transport of malathion to control malarial mosquitoes have also contributed to the deterioration of the health of the people of the north.

Describing the prevailing situation in Jaffna District in 1994, Dr C.S. Nachinarkinian, Lecturer in Community Medicine at the University of Jaffna, wrote:

Within the area there are limitations in all forms of transport except bicycles which is not suitable for urgent acutely ill patients ... Some medical institutions have been demolished; some are too close to military establishments and going for medical attention is more risky than the continuing illness; in some areas the people including staff have left the area, when the military moved in leaving the elderly and infirm behind.

Further, lack of other infrastructure facilities – light, electricity, fuel, water, telephone [and] trans-

port delays has added to the higher rates of infections, increasing the morbidity and mortality patterns.⁸⁷

Dr Nachinarkinian also noted the acute shortage of midwives, nurses and nursing tutors in the north and east, and the lack of other medical specialists. After 1983, medical staff working in the north and east began to leave the area. Since then only two fully qualified specialists have returned, one to Trincomalee in 1993 and one to Vavuniya in 1994. International agencies have trained new primary health care personnel, and provided limited specialist medical services in hospitals at Point Pedro, Trincomalee, Batticaloa and Amparai, but medical services and supplies remain wholly inadequate.

The serious deterioration in the physical and psychological health of the people of Jaffna was emphasized in a study on child trauma by Dr A. Somasunderam of Jaffna Hospital. The number of low birth weight babies had risen from 19 to 25 per cent from 1989 to 1992. This was attributed to the anaemia suffered by all the pregnant women who gave birth in 12 refugee camps in Jaffna Municipality in 1991. In the first 11 months of 1992, over 200 children died of typhoid or dysentery.⁸⁸ During the first three months of 1994, 50 per cent of children admitted to Jaffna Hospital were malnourished; some dying from fever. Drug shortages contributed to the deaths of septicaemia sufferers, but inadequate laboratory facilities and lack of trained personnel to culture blood and diagnose the disease also delayed treatment.

Malnutrition increased in the north as food supplies diminished. Food shortages were compounded by the fact that the government had imposed restrictions on fishing from northern coastlines, vastly reducing the annual catch. In addition, agricultural production in the north had fallen dramatically. Again the blockade was partly to blame. One Jaffna University lecturer estimated that 54,275 people had lost employment in the paddy sector in Jaffna District from June 1990 to December 1992. In some areas of the north and east under military control, the military have imposed restrictions on rice cultivation, sometimes preventing cultivation altogether, apparently in order to prevent parts of the crop reaching the LTTE. In areas under no overall control, farmers may find themselves caught between the two sides, required to provide crops to the LTTE, but liable to be killed by the army should they do so.

The internally displaced

From the point of view of protection of human rights ... in Sri Lanka, the displaced are more vulnerable than the rest of the population in certain ways: they may be forcibly resettled, more readily subjected to round ups, arbitrary detentions or arrests; deprived of their dry rations or more frequently unable to get jobs. Those not displaced have been identified as being more self reliant and more resilient to the destructive impacts of the conflict.⁸⁹

At the end of July 1994, there were an estimated 524,202 internally displaced people in Sri Lanka, of whom approximately 78 per cent were Tamil, 13 per cent Muslim and 8 per cent Sinhalese.⁹⁰ By the end of 1995, following the military offensive against Jaffna, hundreds of thousands more had been rendered homeless.

Most of the displaced fled their homes because of armed conflict. Others, however, were forced to leave solely on the basis of their ethnicity, including the Muslims expelled from areas under LTTE control in October 1990. Another category of people displaced from their homes are those who had fled to India, tens of thousands of whom have been repatriated in recent years. The voluntary nature of the repatriation programme has been seriously questioned. While some were able to return to their homes, many were not and remain in camps.

Resettlement

The government has sought to resettle displaced persons, despite continuing insecurity in the areas concerned. In 1993 the Ministry of Rehabilitation, Reconstruction and Social Welfare issued a set of resettlement guidelines which stressed that resettlement should be voluntary, and emphasized the need to provide the necessary social and economic infrastructure for successful resettlement. The guidelines were not properly observed, however, and people have been resettled in insecure conditions with inadequate economic resources. Some have resettled in areas controlled by the LTTE, which has run its own resettlement programme in which military considerations play a considerable role.⁹¹

The family life of many of the displaced has been severely disrupted.⁹² Many husbands and fathers have been killed in the conflict or disappeared, and women are having to assume greater responsibilities. Many thousands of widows are estimated to be living in the north and east, and it has often proved difficult for them to claim compensation for the loss of their husbands. Families living in refugee camps suffer cramped conditions with very little privacy indeed. Furthermore, their physical security has not always been guaranteed. People living in camps are vulnerable to searches and arbitrary arrests by the security forces, and in 1990 hundreds of people disappeared after being taken from camps by the military. In northern areas under LTTE control, places of refuge have sometimes been shelled or attacked from the air.

The state has been helping with food coupons (and later money). In addition, the children of the internally displaced are entitled to attend local schools, but the presence of many thousands more people in an area puts extra demands on an already over-stretched school system in the north and east, and those who resettle under the government resettlement policy may find it harder to find adequate schooling for their children than those who remain in camps.

Housing grants are provided by the state to those who resettle, although there have been complaints about delays in the disbursements of grants. As mentioned earlier, the embargo has made it all the more difficult for people to rebuild their homes in some areas. Another problem facing the displaced in the east is that their title to the land and property they left behind may be hard to

reestablish in future.

There are few employment opportunities for the displaced, and in some areas the presence of thousands of displaced people who may offer their labour at cheaper rates has created tension between the displaced and the local population.⁹³ Restrictions on fishing and on the movement of goods can limit employment opportunities further.



Civil and political rights of minorities

The Sri Lankan government and security forces have committed gross violations of the rights of tens of thousands of its people in the context of armed opposition to the state. The rights to life, liberty and security of the person have been most at risk. There has been widespread long-term arbitrary detention of prisoners under the PTA and the emergency regulations; civilians have been killed in reprisal for the execution by militants of soldiers or police officers; tens of thousands of prisoners have disappeared; others are known to have been tortured and killed. At different times, members of different groups have been more vulnerable to such violations, and the patterns of abuse have also varied as the security forces' tactics have changed. However, while the main arena of conflict remains the north and east, it is the Tamil people whose rights are most at risk.

The armed groups opposing the state have also committed abuses on a large scale. Many hundreds of Muslim and Sinhalese inhabitants in the east have been attacked and killed by members of the LTTE, for example, and bombs and suicide attacks in Colombo have caused yet more casualties. The LTTE has not only targeted members of other ethnic groups, it has also killed many Tamils who opposed its policies, including assassinating leaders of other Tamil parties, which are now banned from operating in the areas under its control.

Other civil and political rights have also been curtailed. Freedom of expression and association have been denied at times, as has the right to political participation through being able to vote freely in elections. The right to a nationality was denied for many years to Up Country Tamils, with negative consequences for their enjoyment of many other rights. Civil and political rights have been denied by both state and non-state actors, with different groups of people affected at different times.

Minority rights under the 1978 constitution

The 1978 constitution created under J.R. Jayawardene, brought in a highly powerful executive presidency and a new system of proportional representation which some commentators believed would ensure a greater influence in national politics for minorities. It provided some guarantees on language by incorporating into the constitution the rights and provisions which had earlier been included in the 1958 Tamil Language (Special Provisions) Act and the 1968 Tamil Language Regulations. Under the thir-

teenth constitutional amendment of 1987, Tamil and English were made official languages alongside Sinhala.

The 1978 constitution also contained considerably stronger fundamental rights protection than had been contained in the previous constitution, including provisions for freedom of thought, conscience and religion; for equality of all persons before the law; and prohibiting discrimination against any citizen on grounds of race, religion, language, caste, sex, political opinion and place of birth. Citizens were also entitled to the right to promote their own culture and use their own language. Also protected were freedom from torture or cruel, inhuman or degrading treatment or punishment, and arbitrary arrest; and the rights to freedom of expression, peaceful assembly, association, movement, residence and return to Sri Lanka. Not all of these rights were guaranteed for non-citizens, however.⁹³

The constitution provided a remedy when constitutionally guaranteed rights were violated by the executive and administrative branches of government. The Supreme Court was empowered to grant relief when it found such violations had been committed. However, the court was not required to attribute individual responsibility to an officer or agent of the state, nor was it empowered to bring perpetrators to justice under this procedure. While at first the state bore the cost of compensating victims, individual officers now have to pay the compensation themselves.

Although guaranteeing a wide range of rights, the constitution permitted them to be restricted on very broad grounds. It thus failed to provide the extent of protection required by the UN International Covenant on Civil and Political Rights, which Sri Lanka acceded to in 1980.

Right to life

From the mid-1980s the security forces regularly resorted to widespread extrajudicial executions and disappearances in confronting armed opposition. In the north and east, after the escalation of conflict in 1983, there were numerous reports of Tamil civilians being killed in retaliatory action by the security forces, and sometimes of their bodies being burned. In 1984 increasing numbers of people also started to disappear in custody. Their relatives – especially their mothers, wives and sisters – spent fruitless years trying to trace them. Members of the Special Task Force, a new police commando unit, as well as members of the army, were most frequently cited by witnesses as having arrested those concerned. Less often, police, airforce and navy personnel were described

as the arresting authority.

Many of the disappeared are believed to have been tortured and killed in custody, with the bodies then disposed of secretly. Released prisoners sometimes described events of this kind which they had witnessed.⁹⁴

In the north and east the number of people who have been extrajudicially executed or disappeared runs to many thousands. The victims have almost all been Tamils. As the rate at which these violations were committed rose, it became harder for them to be documented. In addition, many of the local organizations which in the mid-1980s recorded these abuses came under threat and ceased to function. Amnesty International recorded over 680 disappearances in the north and east from 1984 to mid-1987. From mid-1987 to March 1990, when the IPKF was responsible for the security of the north and east, it recorded 43 disappearances for which the IPKF was believed responsible. Previously, hundreds of Tamil youths had been detained and many had been tortured. However, disappearance was a technique which eradicated direct evidence of the most grave abuses, including torture and unlawful killings of prisoners in custody. After armed conflict resumed between the LTTE and government forces in June 1990, it became impossible to give an accurate figure of the numbers, which reached approximately 3,000 within months.⁹⁵

By June 1990, the security forces had completed their task of wiping out the Sinhalese-based JVP insurgency in the south. In the course of the southern counter-insurgency operations they had increasingly adopted tactics of counter-terror. Previously, in the conflict in the north and east, it had been clear that it was members of the regular security forces (frequently in uniform) who had taken the prisoners who then disappeared. In the south, however, new tactics were employed. Plainclothes death squads appeared under various names, echoing the JVP in issuing death threats to individuals and putting up threatening posters in public places. But where the JVP targeted supporters of the Indo-Sri Lanka Accord or those who publicly opposed the JVP, the death squads sought to instil fear in those who did not support the government. There was a massive rise in the numbers of extrajudicial executions and disappearances committed. Mutilated and often unidentifiable bodies began to be dumped in public places or were burned on roadside pyres. Estimates of the numbers killed or disappeared in the south by government forces from 1987–90 range from 20–60,000. The precise figure will probably never be known. The victims were almost all members of the Sinhalese majority. The JVP was also responsible for a large number of killings in this period. According to government figures, the JVP killed 6,517 people between 1987 and mid-March 1990.⁹⁶ Gradually evidence emerged that in many of these cases the perpetrators were military or police in civilian dress.

The government distributed weapons to a range of civilian groups without adequate safeguards or controls. These groups could therefore kill with the same sense of impunity as the government forces. After conflict resumed in the north and east, the government also armed civilian groups in the border areas, with inadequate controls to prevent abuse.

The troops who returned to the north and east in June

1990 to confront the LTTE once again, took with them of the techniques they had used in the south. As they regained control over the towns of the east, in particular, huge numbers of disappearances were reported and burned or mutilated bodies again started appearing in public. Only after the battles for territory were over did the rate of disappearances drop significantly.

The International Committee of the Red Cross (ICRC) had been admitted to the country in late 1989, but in that period still had difficulty gaining access to detention places in the north and east. However, in 1991 the government began to respond to international concern about the scale of such violations in the country, and introduced certain limited safeguards against them. Yet still, a number of disappearances continued to be reported every year, and the government appeared reluctant to pursue investigations which might lead to prosecutions of those responsible. Since the PA government took office in 1994, several disappearances have been reported in the north and east. Of grave concern in 1995 was the discovery in locations in and around Colombo of the bodies of 19 people who had evidently been held prisoner before their deaths, who had been dumped in lakes or fields. At least some of the dead were believed to have been Tamil. In a marked departure from past practice, an investigation into these deaths led to the arrest of several members of the Special Task Force in September 1995, and its Intelligence Wing was disbanded.

Commissions of inquiry

Reprisal killings by the security forces have also widely violated the right to life. In the north and east, there were numerous reports of reprisal killings of groups of civilians in the mid-1980s, and in August 1989 the attack on Valvettiturai by the IPKF, in which at least 52 people were killed, was another widely-reported case. As with disappearances, the security forces have been able to commit these violations with impunity for years. It was not until June 1991, when at least 67 civilians were killed by soldiers at Kokkadichcholai in Batticaloa District, that the government took the step of appointing an independent Commission of Inquiry into the incident. Even then, the investigation did not result in the perpetrators being identified and held responsible. The inquiry concluded that the deaths had resulted from 'deliberate retaliatory action' by soldiers and not, as the military had claimed, from crossfire. Twenty military suspects were brought to trial before a military tribunal, not a civilian court. Nineteen were acquitted altogether, and the officer-in-charge was convicted on the lesser charges of failing to control his troops and disposing of bodies illegally at the site of the massacre. Certain other incidents of reprisal killings have also been investigated by bodies with lesser powers than a full commission of inquiry, or by the security forces themselves. None resulted in successful prosecutions of those responsible.

In January 1991 the government created a Presidential Commission of Inquiry to investigate disappearances which took place from the date of the commission's creation. It was not empowered to investigate past disappearances, and was created well after the period of most intense abuses. Although the commission submitted



reports to successive presidents on at least 142 cases of disappearance between January 1991 and the end of 1994, no known action was taken by the government of the time. The commission ceased to operate in September 1995.

In 1994, the PA government came to power with a stated commitment to investigate past violations of human rights, including disappearances and killings. It set up three commissions of Inquiry into disappearances committed from 1 January 1988. (Disappearances prior to that date are not under investigation.) The commissions began their work in January 1995 and by October 1995 they were said to have received over 30,000 complaints of disappearance.⁹⁷ Those reported to the commission concerning the north and east would almost all have been Tamil disappearances; the great majority of those reported to the other two commissions (covering Western, Southern, Sabaragamuwa Provinces, and Central, North Western, North Central and Uva Provinces) would have been of disappeared Sinhalese.

Freedom from arbitrary arrest and detention

Thousands of people have been detained for long periods without charge or trial under the PTA or emergency regulations. These have included Tamil prisoners held for suspected involvement in militant activities, as well as Sinhalese prisoners held in connection with the JVP insurgency in the south. By May 1987, at least 3,000 men and women – the great majority of whom were Tamil – were estimated to be held. Some had been detained for several years, usually without independent judicial review.⁹⁸ Under the terms of the Indo-Sri Lanka Accord, such detainees were released. Similarly, during the JVP insurgency, up to 17,000 Sinhalese prisoners were detained under emergency regulations.

Arbitrary detentions of Tamil suspects continued. Not only were people living in the north and east vulnerable to such abuse, but also Tamil residents of southern towns, particularly Colombo. Especially following assassinations and attacks in the south by the LTTE, thousands of Tamils in the south have been detained, often solely on the basis of their ethnicity. In the six months between 1 June and 31 December 1993, 15,711 arrests were made in Colombo District under the emergency regulations or the PTA. Most of those arrested were Tamil. In only 8 per cent of cases was there sufficient evidence to continue holding the person in custody by issuing a detention order under the emergency regulations, and in only 0.1 per cent of cases was a detention order issued under the PTA. Although most were routinely released within days and were not abused in custody, others were held in secret detention and tortured.⁹⁹ The number of people arbitrarily arrested in this manner dropped in 1994, but rose again in 1995, with calls from the Tamil leadership for safeguards on detention to be introduced. In Colombo and other parts of the south, these arrests were carried out by the police. Arbitrary arrests also increased in the east after the resumption of hostilities in April 1995. There, people were arrested by the army, navy, airforce, Special Task

Force and police, often with the assistance of the armed Tamil groups which oppose the LTTE.

In August 1991 the government established a Human Rights Task Force (HRTF) 'to monitor the observance of fundamental rights of detainees'. The HRTF was granted its powers under the emergency regulations. The HRTF entered places of detention and compiled lists of detainees. At times, the HRTF also tried to intervene with the authorities in cases where detainees had been abused or had disappeared, and published some of its findings in its annual reports. It had no powers to intervene effectively in cases of unjust detention, although in some instances people were released on the basis of HRTF intervention. The regulations which governed the creation and functioning of the HRTF lapsed in September 1994, and although the HRTF continued to function, its powers were significantly curtailed.

In June 1995, following representations to the government from local and international human rights organizations about the lack of effective safeguards on arbitrary detention and the abuse of detainees, new regulations were issued to reestablish the HRTF, and the President issued directives to the heads of the security forces to enable the HRTF to exercise its powers.¹⁰⁰

In the north, the LTTE is said to hold numerous prisoners, including women and older people, but there is no recent information available about the numbers held, their whereabouts or conditions of detention. According to one organization – University Teachers for Human Rights (Jaffna) – until the beginning of 'Eelam War II' in June 1990, the LTTE held some 3,000 prisoners at Thunukkai, but this camp was later closed. At least a dozen more LTTE prison camps were known to have existed, holding from about 30 to several hundreds of prisoners. Former prisoners have described very poor conditions in LTTE camps, and widespread torture as well as cruel and inhuman treatment. Some detainees had been tortured or beaten to death.¹⁰¹ While the LTTE has granted the ICRC access visits to the police officers and soldiers it holds, it does not grant it access to its Tamil prisoners and the fate of some is not known even years after their detention.

Freedom from torture and cruel, inhuman or degrading treatment

Torture has been widely practised in Sri Lanka. Security detainees are particularly at risk because provisions of the PTA and of the emergency regulations dispense with the safeguards against torture and disappearance which are found in the ordinary law. Both the PTA and the emergency regulations give the security forces wide powers to arrest suspected opponents of the government and detain them incommunicado and without charge or trial for long periods. Such conditions provide a ready context for torture, deaths in custody and disappearances.

The Sri Lankan government ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in January 1994, and in November 1994, the PA government passed legislation to

give effect to the Convention in Sri Lankan law. However, the legislation fell short of the full range of obligations that Sri Lanka undertook when it signed the Convention.

In recent years, an increasing number of fundamental rights cases have been filed in the Supreme Court concerning alleged torture by the police. The Court has awarded substantial damages in several cases, which some commentators believe is having a deterrent impact on such practices.

As described above, the LTTE is also reported to torture prisoners, as are members of some of the Tamil groups which have allied with the government:

The right to a nationality and the Up Country Tamil community

Up Country Tamils were already an impoverished, underprivileged group at independence. The passing of the Citizenship Act of 1948, which deprived them as well as some Muslims of their citizenship, also denied them their right to a nationality.¹⁰² It was followed the next year by another piece of legislation, the Ceylon (Parliamentary Elections) Amendment Act, which deprived them of the vote. Two pacts between the governments of India and Sri Lanka failed to resolve the problem of statelessness, which was not finally resolved in law until November 1988. Even then, there have been problems with the implementation of this legislation.

The 1948 Citizenship Act created two kinds of citizenship: citizenship by descent and citizenship by registration.¹⁰³ The effect was to deny citizenship to persons of recent Indian origin, whether or not they had been born in Ceylon. About one million Up Country Tamils were affected. It was clear that the law had been passed with the intention of rendering this group of people stateless. In August 1949 the Indian and Pakistani Residents (Citizenship) Act was passed, but this too proved restrictive. Some 237,000 applications for citizenship were submitted under the Act, but the vast majority were rejected, often on flimsy technical grounds.

Statelessness brought many problems to those concerned. When purchasing property, persons of Indian origin had to submit their birth certificates and certificates of citizenship to the Notary Public for certification on the deed. If the person concerned was stateless, they had to pay 100 per cent tax on the value of the property, as required of foreigners under the Finance Act of 1967. A stateless person wishing to adopt a child was also treated as a foreigner, and was required to apply to the District Court of Colombo rather than being able to apply to any District Court, and thus incurred considerably greater costs. Stateless persons could not travel abroad, nor could they carry out export and import trades because they were not issued with licences. They were also not entitled to land grants from the state.¹⁰⁴

In 1964 the government of Prime Minister Sirimavo Bandaranaike reached agreement with the Indian government on granting citizenship to a certain number of

Up Country Tamils. Under the Indo-Ceylon Agreement, 525,000 people would be granted Indian citizenship and be repatriated to India together with their offspring, over a period of 15 years. In the same 15 year period, 300,000 people would be granted Sri Lankan citizenship. The agreement stipulated that the repatriation to India and the granting of Sri Lankan citizenship should keep pace with each other. It failed to cover the total number of stateless Tamils in the country, however, leaving room for a future agreement on the status of some 150,000 more stateless people.

The Indo-Ceylon Agreement was implemented very slowly indeed, and during the period of Dudley Senanayake's government (1965–70) it slowed even further. By early 1970, only 12,798 people had been repatriated and just 7,316 had been registered as Sri Lankan citizens. The vast majority thus remained stateless.

In 1974 Sirimavo Bandaranaike reached a second agreement with the government of India – the Sirimavo-Gandhi Pact. This dealt with the 150,000 people and their offspring who had not been covered by the Indo-Ceylon Agreement of 1964. It provided for 75,000 to be repatriated to India, and for 75,000 to be granted Sri Lankan citizenship. By July 1977, the end of Bandaranaike's premiership, 211,821 people had been repatriated to India and 152,524 had been registered as Sri Lankan citizens. The majority still remained stateless.

The 1978 constitution did away with the earlier distinction between citizenship by descent and citizenship by registration in one clause, but at the same time specifies that certain discriminations which could be imposed on citizens by registration under the 1948 Citizenship Act still apply. Thus, discriminatory provisions relating only to citizens by registration remained in force. Citizens by registration can lose their citizenship if they reside outside the country for 5 or more consecutive years 'on unauthorized or on personal grounds', for example; or if convicted of certain offences; or if the relevant minister considers their conduct to be 'detrimental to the interests of Ceylon'.¹⁰⁵ The overwhelming majority of Up Country Tamils are citizens by registration, and thus continue to hold second-class citizenship and be vulnerable to such discriminatory legislation.

In January 1986, the government of Sri Lanka and India reached another agreement in the 'Accord on Tamils of Indian Origin'. By then, India had granted citizenship to 421,207 people, but Sri Lanka had granted citizenship to just 197,535. A remaining 356,258 people, with their offspring, remained stateless.¹⁰⁶ The Sri Lankan government agreed to grant citizenship to a further 94,000 people within 18 months, while the Indian government agreed that it would grant citizenship to all the 506,000 people who had opted for Indian citizenship within six to eight months. Legislation was passed to put this agreement into effect, but again implementation was slow, and by the end of October 1988 only 237,151 people had been granted Sri Lankan citizenship, leaving a further 231,849 still stateless.¹⁰⁷

In late 1988, shortly before the presidential election was to be held, the Grant of Citizenship to Stateless Persons (Special Provisions) Act was passed. This provided that any stateless person of Indian origin who was lawfully resident in Sri Lanka, and who was not among



the 506,000 persons who had already applied to the Indian High Commission for Indian citizenship, would be considered a citizen from the date on which the Act came into force, and would be entitled to all the rights and privileges to which other citizens are entitled by law. The Act provided for any person falling into this category to apply to the Commission for the Registration of Persons of Indian Origin for a certificate of citizenship, which was to be issued within 60 days. However, in many cases certificates were not issued within this period, and some applicants still had not received their certificates even four years later. The 1988 Act also said that nobody would be required to produce a citizenship certificate for any purpose, but could when required produce a sworn affidavit instead. However, this has been less than effective:

Many stateless persons found it difficult to get an affidavit attested by a Justice of Peace (JP) for the simple reason that any JP could refuse to attest the affidavit saying that he was not sure whether the applicant was not one of the 506,000 who had applied for Indian citizenship. And, even if affidavits could be adduced, they are often not accepted as sufficient proof of citizenship by the public or even by government authorities. In fact, there have been many instances where officials of the Department of Elections have called for citizenship certificates or affidavits as proof to register their names in the electoral register since, under the constitution of the Republic of Sri Lanka, only citizens are qualified to be electors. Thus thousands of Indian Tamils have been deprived of their fundamental right to franchise and their right to participate in elections.¹⁰⁸

This attempt to resolve the outstanding cases of statelessness just one month before the presidential election campaign appeared to pay dividends. The UNP candidate Ranasinghe Premadasa won 50.4 per cent of the vote against 44.95 per cent won by SLFP candidate Sirimavo Bandaranaike. Although voter turn-out was low for Sri Lanka at 55.32 per cent, in the plantation areas it was considerably higher with strong support for the UNP: 80 per cent of voters in Nuwara Eliya District voted, with 62.5 per cent voting for Premadasa and only 3 per cent for Bandaranaike.¹⁰⁹

Apart from the problems mentioned above, outstanding issues also remain over the granting of Indian citizenship and repatriation to India. Although some of the 500,000 or so who left for India went voluntarily, others did not. Some left because of the violent attacks inflicted on their communities in the late 1970s and 1980s. These pressures strongly influenced their decision to apply for Indian citizenship. Then, in 1984 the ferry service between India and Sri Lanka was suspended because of the escalating conflict. About 84,000 people who had been granted Indian passports could not travel to India. Many of these people have since died. Their children remain in Sri Lanka, but with rights to Indian citizenship. They may have no desire at all to go to India, but are excluded from attaining Sri Lankan citizenship.¹¹⁰

Political participation: the right to vote

The right to vote has been curtailed in Sri Lanka by several means: legislation passed in 1948 redefined the basis for the franchise such that only citizens would be entitled to vote, thereby ensuring that Up Country Tamils – who had just lost their citizenship – would also lose the vote; two past governments extended their terms in office without going to the polls; armed opposition groups have called boycotts of elections; and administrative incompetence has resulted in thousands of people being denied the vote.

Armed opposition groups in both the north and the south have called boycotts of polls, and threatened to kill those who voted. Some candidates for election have been killed, both at local and national levels. Some such instances have been described earlier. Elections in 1988 to the provincial councils created under the Indo-Sri Lanka Accord were boycotted by the LTTE in the north and the JVP in the south. The campaigning was marked by violence and the turn-out was extremely low in the areas where these groups were strongest. The SLFP did not stand in these elections at all. In the parliamentary and presidential elections of 1995, voting was only possible in areas under governmental control. In the north and east, the LTTE held about 80 per cent of Jaffna District and 50 per cent of Vanni District at the time, and opposed the election. In any case, the LTTE does not allow other political parties to function in areas under its control. In practice, the election could only be held in the so-called 'cleared' areas.

Internally displaced persons

For the parliamentary election, the opposition PA had no access to the cleared areas of Jaffna District, which were in practice under the control of the Eelam People's Democratic Party (EPDP) on behalf of the government. The EPDP ran candidates in these areas, as did the SLMC. The last time the Jaffna District electoral roll had been updated was 1986, since when many thousands of people have left the district. Internally displaced persons did have the right to vote – but as described below, this right was severely curtailed in practice. In the event, only 13,000 of the 600,000 registered voters – just 2.32 per cent – voted in Jaffna District, those voting living mostly on the outlying islands controlled by the EPDP. Numerous abuses of the electoral process – including multiple voting and intimidation by the EPDP – were reported by international election observers. In Vanni District, only 42 per cent of polling stations were functioning, and about one quarter of registered voters cast their votes. This compared with polling rates ranging from about 68 to 81 per cent in different parts of the east.¹¹¹

Many thousands of internally displaced persons in effect lost their right to vote in the 1994 parliamentary election through administrative procedures. By law, the displaced may vote for candidates standing in the district of their original residence, but may vote from their places of refuge provided they are registered as voters there. However, the

Elections Commissioner only registered 19,000 of the 25,000 people who applied (out of a total displaced population of some 600,000) and gave no reasons for rejecting the remaining 6,000. The number of applicants for registration might well have been higher if the form used for this purpose had not just been in Sinhala when the majority of those affected, including Muslims, were Tamil-speakers. In addition, a very tight deadline was set for the return of the form, which may have deterred yet more from applying. Of 2,500 people living in the Asikulam camp in Vavuniya who applied for registration, just 75 were accepted. Yet when the 75 people turned up to vote, they learned that their names had not been included on the electoral lists sent by the Commissioner, and so could not vote. The SLMC received from the Commissioner's office the names of 6,100 Muslims in the Puttalam refugee camps who had been registered to vote for candidates standing in Jaffna District. But the polling authorities in Puttalam were only informed of about 3,000 displaced persons who were eligible to vote; the other 3,100 were in effect disenfranchised.¹¹²

Freedom of expression and minorities

The freedom of expression of citizens (but not non-citizens) is protected under the 1978 constitution, but can be subject to restrictions on broad grounds.¹¹³ In practice, however, freedom of expression has come under attack from many sources in Sri Lanka. Successive governments have imposed censorship through law – and especially emergency powers – to close newspapers, seal printing presses, detain political opponents and enable security forces to destroy evidence of possible extrajudicial killings. They have also used less formal methods, such as widespread threats and attacks on journalists, media workers, writers and peaceful assemblies. As with violations of other rights, different groups within the country have been affected at different times.

Armed militant groups have also imposed severe restrictions on expression. In the north, as already noted, the LTTE tolerates little opposition and has killed and imprisoned opponents. It has also killed many people outside the region who oppose its views. It controls all newspaper publication on the Jaffna peninsula, and also runs its own radio station.

Considerable violations of the right to freedom of expression have been committed under emergency regulations, including instances where the expression of minority interests or grievances has been at issue. Examples include the use of emergency powers to detain people who were peacefully protesting against government policies which adversely affected their group – such as Tamil youths protesting against the new university admission system in the 1970s. Emergency powers have also been used to prevent publication of information relating to human rights violations committed against Tamil people.

The passing of the sixth constitutional amendment in 1983, which banned advocacy of secession, was another major blow to freedom of expression in Sri Lanka. Under

the sixth amendment it became necessary for parliamentarians to take an oath, which requires commitment to uphold and defend the 1978 constitution, and not to support, promote or espouse in any way the establishment of a separate state in Sri Lanka's territory. The amendment made no distinction between peaceful and violent advocacy of separatism, and so in effect prohibits even the peaceful advocacy of an idea.

Security legislation

Despite maintaining a democratic parliamentary system since independence, Sri Lanka has in practice been ruled under a declared state of emergency for well over 26 of the past 42 years, with emergency law operative in all or part of the country. Emergency provisions have varied at different times. They prevail over all other laws except the constitution.

As previously discussed, the PTA and emergency powers have contributed to the ability of the security forces and the government to commit serious violations of human rights with impunity. They dispense with the normal safeguards against arbitrary detention, disappearance and torture that are found in the ordinary law, and thus facilitate abuse.

Although some of the most obnoxious features of the emergency regulations have been removed in revisions carried out over the past 2 years, they still fail to provide the necessary safeguards on abuse and fall short of fulfilling Sri Lanka's obligations under the International Covenant on Civil and Political Rights. In addition, without constitutional changes to provide for strict limits on the extent of emergency powers and for judicial review, there is nothing at present to prevent even the most draconian of provisions being reintroduced overnight.



Education: perpetuating prejudice

The UN Declaration on Minority Rights stipulates that 'states should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole' (Article 4[4]).

Far from fostering a broad knowledge, respect and understanding of the multi-ethnic fabric of Sri Lankan society, the Sri Lankan educational system reinforces and perpetuates ethnic segregation and exclusivity.¹¹⁴ Schools are mostly segregated on an ethnic basis. Teachers are not trained in multi-culturalism nor encouraged to challenge negative stereotypes of minority groups. The curriculum does not require that any education be provided at all on the cultural, religious, linguistic and ethnic diversity within the country. Tamil is not taught to Sinhala-speakers nor Sinhala to Tamil students. Instead, the wider social separation and insularity of the Sinhalese and Tamil communities is reinforced in schools and mutual distrust and antagonism between communities is promoted:

In segregated schools the exclusivist and ethnocentric views of the wider society are easily inculcated and reinforced in students. When ideas expressed in outer society and schools are consistent, they are given an added legitimacy and respectability in the minds of students. Segregated schools have made significant contributions in reinforcing mutually antagonistic ethnic and religious identities at the expense of a Sri Lankan national identity.¹¹⁵

Several commentators have remarked that despite forming a clear numerical majority in the country, Sinhalese people tend to perceive themselves as a vulnerable minority in the wider region of the sub-continent, threatened by the very much greater number of Tamil-speakers just over the water in south India. Conventional histories of Sri Lanka are deeply coloured by present-day nationalist assumptions and present an image of a glorious but embattled Sinhalese nation repeatedly having to defend itself and the Buddhist religion from the ravages of south Indian Tamil invaders. These perceptions have contributed greatly to the repeated failure of various Sri Lankan governments to reach an acceptable political solution to the ethnic issue. What are seen by Sinhalese nationalists as 'concessions' to the Tamil political leadership have often been interpreted as 'threats' to the continued existence of the Sinhalese. The Tamil separatist position is in turn buttressed by readings of the island's past which claim an ancient foundation for an indepen-

dent Tamil state on the island. Nationalist ideology, which is based on certain understandings of history, is thus an important factor in the conflict. However, the teaching of history in Sri Lanka and its role in perpetuating prejudice and violence has not come under scrutiny by the state and has been addressed by very few concerned scholars.

Sinhalese and Tamil nationalist histories¹¹⁶

In Sri Lanka, as in many other countries, modern nationhood is most often represented in historic terms, despite great differences in the nature of the pre-colonial and post-colonial state. Nationalism places great emphasis on the territorial integrity of the state and on uniformity of rule within its boundaries. Pre-colonial kingdoms, however, differed from the modern nation state, especially in the manner in which different social groups were articulated in the polity. Such differences, however, are generally ignored in nationalist histories, which are written as if present day ethnic terms had the same meanings as in the past.¹¹⁷

In nationalist Sinhalese Buddhist readings of the past, the island, the Sinhalese people and the Buddhist religion are all seen as inherently interlinked. For example, in Sri Lanka's ancient chronicles, the Buddha is said to have made three miraculous visits to the island during his lifetime and to have declared that in Lanka his 'doctrine should ... shine in glory'.¹¹⁸ Furthermore, drawing on the European racial theories, the Sinhalese are presented as being descendants from north Indian Aryans and to have been the first settlers in the island, where previously only the 'uncivilized' Veddas lived.

The dominant version of national history which has developed in Sri Lanka has been deeply divisive, in the context of the wider state. The true Sri Lankan, in this view, is the Sinhalese Buddhist. Those who cannot identify as, or become, 'Sinhalese' – that is, Tamils, Muslims and, to some extent, Christians (who might be either Sinhalese or Tamil) – must thus live 'in the interstices of other people's history'.¹¹⁹

The Tamil nationalist version of the past appears to differ considerably from the Sinhalese nationalist view. In some versions, it is argued that even if the Sinhalese people came to the island first, Tamil people have lived there for over 1,000 years and formed their own autonomous political units independent of Sinhalese control. Stronger nationalist readings of the past go further, however, claiming that the original inhabitants of the island were in fact Tamil and that the Sinhalese were therefore Tamils who converted to Buddhism and then adopted the Sinhala lan-



guage. In this reading, much of the historical heritage claimed by the Sinhalese as monuments to their past greatness was actually produced by Tamils. The historical and archaeological arguments are endless. Sinhalese and Tamil nationalist histories, while clearly opposed to one another in content, on another level have much in common. They seek to demonstrate an inherent historical identity between a geographical area, an ethnic or racial group and its language and culture, and a right to rule.

History and conflict

As the concept of the 'Tamil homeland' has developed, new interpretations of the island's past were developed which emphasize the distinctiveness of the Tamil people as a separate nation (rather than as a minority within a predominantly Sinhalese state) and which claim an ancient history of pre-colonial autonomous Tamil kingdoms on the island. Yet many within the majority community view minorities as latecomers who should be content to live within a dominant Sinhalese Buddhist ethos.

That the politics of history is an integral part of the conflict has been clearly demonstrated by the choice of some of the targets for attack. For example, in May 1985, a site of central significance in the Buddhist chronicles of the island – the Bo Tree Temple at Anuradhapura – was attacked by members of the LTTE. Approximately 150 people were killed. The Anuradhapura Bo Tree is said to be a sapling from the tree under which the Buddha himself gained enlightenment. According to Buddhist thought, it will survive for as long as the present era of Buddhism lasts. Similarly, the choice of names, such as the 'Ellalan Force' – which staged attacks in Colombo and is said to be a front for the LTTE (although the LTTE denies this) – involves key historical myths. On the other side the names of some military regiments, such as the Sinha (lion) Regiment, for example, clearly evoke the mythical ancestor of the Sinhalese.

Ethnic segregation in the education system

Since 1951, the linguistic separation of schools has been supported by state policy. Under the Education (Amendment) Act of 1951 'all children must be educated in their mother tongue'. Before that date, any child could be educated in English, although in practice it was only members of the élite social classes who had such opportunity.

English education was seen to have introduced and entrenched new class divisions into society, as it gave the few who benefited from it far greater life chances. Indeed, the introduction of education in the 'mother tongue' in 1951 was intended as a corrective to this colonial inheritance. Only the élite English-educated minority had access to prestigious and lucrative professional and state sector employment. Lack of access to English education was seen as a major source of disadvantage. In the period 1880 to 1910 only 12 per cent of the school population was educated in English, while some 85 per cent were educated in either Sinhala or Tamil – and only at primary school level. Some were educated in Anglo-veracular schools, which used English and either Sinhala or Tamil. By the late 1940s only 5 per cent of the population as a whole had been educated in English. Education for all in the mother tongue, it was hoped, would increase the life-chances of the majority. The corollary of this, however, was that schooling became increasingly segregated on ethnic (linguistic) grounds.

In addition to the linguistic segregation of schools, separation of schools on religious lines also developed. During the period of British rule from 1796 to 1948, three kinds of school had been created: government schools, private schools and missionary schools. Missionary schools were particularly successful. In the latter part of the nineteenth century, however, at a time of increasing Buddhist cultural revivalism, the desirability of an alien Christian education came into question. With the assistance of the Theosophical Society of Ceylon, new Buddhist schools were opened to compete with Christian missionary schools. They used English as the medium of instruction, taught Buddhism in place of Christianity, and otherwise followed a largely secular curriculum. In turn, Hindus and Muslims also began to establish their own schools.

In the 1950s a requirement that all secondary education should be in the vernacular was implemented, and by 1960 most secondary education was conducted in Sinhala or Tamil. Children who spoke neither Sinhala nor Tamil could be educated in English until 1972. University teaching, also changed to the Sinhala- or Tamil-medium except in the sciences and law where English continued to be used.

There was an explosion in secondary education in this period. The number of children in all schools increased by 72 per cent in the first decade after independence, and the total number of schools rose by 31 per cent. Much of this growth was in the secondary sector: in the same period the number of pupils enrolled in secondary schools more than doubled.

Concern continued to be expressed, especially by the Sinhalese Buddhist leadership, about the continuing influence of Christians in education. In 1955 they ran 35 per cent of all state-assisted schools, but nearly 70 per cent of English language schools. In the 1960s the state took over most Christian schools.

The extent of ethnic segregation in Sri Lankan school is expressed by Perera as follows:

'Of the Sinhalese school-going population, 78 per cent attend Sinhalese-Buddhist or Sinhalese-Christian schools managed by the state or private institutions. On the other hand, the Tamil school population, which constitutes 13.2 per cent of the total student population, attend state or privately managed schools conducted in the Tamil medium. A majority of Muslim students (7.4 per cent of the total student population) attend schools managed by the state or private bodies with a strict Muslim religious orientation, while some attend Buddhist, Hindu and Christian institutions. However, except those Muslims in some Buddhist and Christian schools, all others are educated in Tamil ... [O]ut of a total of 9,518 state-owned schools, 9,460 are ethno-linguistically segregated'



while only 57 had more than one medium of instruction. Even in these schools segregation is internally entrenched. In such schools even though classes are offered in Sinhala and Tamil (more commonly in Sinhala and English or Tamil and English), Tamil students must attend classes in Tamil while Sinhalese students must attend classes in Sinhala thereby making a mockery of bilingual education.'

The change to compulsory education in the 'mother tongue' certainly opened up opportunities to many who had previously been excluded; but the manner in which this expansion of education was instituted increased the ethnic and cultural isolation of different groups of Sri Lankans.

At university level too, ethnic segregation has increased, although for different reasons. Of eight universities in the country, two now provide only for Tamil-speaking students. These are the University of Jaffna in the north and Eastern University in Batticaloa. In both cases, Sinhalese students were also previously taught there. However, anti-Sinhalese riots at Jaffna University in 1977 drove Sinhalese students away and they did not return. In the case of the more recently established Eastern University, 17 Sinhalese students were offered places in the science and agriculture faculties in 1983, but only six enrolled, and they then left after receiving threats. Tamil students have also been driven from universities in the south at times, but have not been driven out altogether. The University of Ruhuna was created exclusively as a Sinhala-medium university. All the other universities educate members of all of the country's ethnic groups, with Sinhalese students in the majority. Even in these universities, however, there is considerable social and academic segregation of students on ethnic lines.

Teacher training colleges are also ethnically segregated, perpetuating the segregated environment within which teachers grew up. These colleges offer no training to challenge ethnic exclusivity and antagonism. As Perera comments:

*'Lacking proper training and a cohesive policy to guide them, teachers are not capable of building a systematic and accurate understanding of the ethnic diversity in Sri Lanka ... It is obvious that if teachers are to play a constructive role in creating better inter-ethnic relations, formal training is required. This can only be achieved by changing the segregated structure of training colleges and completely revising their curricula.'*²⁰

Perpetuating ethnic prejudice in schools

Perera found that in both Sinhala and Tamil schools, negative images of the other group are reinforced in school materials and by teachers. Since the 1970s, history has not been taught as a separate subject, but incorporated into the social studies curriculum. In Sinhala-medium schools the texts used for teaching Buddhism, Sinhala language and social studies were found to contain the most

damaging messages for ethnic relations, conveying negative images of Tamils as the historical enemies of the Sinhalese and celebrating ethnic heroes who are presented as having vanquished Tamils in ethnic wars. In Tamil-medium schools ethnic antagonism was not conveyed in the school texts themselves, however. Government textbooks do not contain anti-Sinhalese attitudes. Texts used in teaching Hinduism and the Tamil language are mostly mono-cultural in content, with very few references at all to the Sinhalese or other ethnic groups. Social studies was the subject in which prejudice was most strongly conveyed, despite the fact that Tamil-language social studies texts themselves contain primarily a Sinhalese version of Sri Lankan history.

In Sinhala-medium schools, a considerable amount of history is taught in the Buddhism curriculum. It emphasizes Sinhalese confrontations with Tamils in defence of Buddhism. Teachers of Buddhism interviewed by Perera generally supported such use of history in the teaching of Buddhism. They felt it important for their students to know about 'the struggles that the leaders of the country undertook to preserve the faith'. Positive lessons from history are not included. No attempts are made to teach about the contributions that certain Tamil kings made to Buddhism, or the links that existed between Sri Lankan kingdoms and Buddhist centres in south India, for example. Similar images of the country's past were also emphasized in social studies teaching.

In the case of social studies teaching in the Tamil-medium, ethnic prejudice and antagonism was conveyed despite its absence in the school texts themselves. Tamil teachers and students alike saw the official history contained in the textbooks as erroneous, but necessary for passing exams. In addition to the official history, Tamil reinterpretations were taught and discussed which conveyed a reverse image of the same long history of conflict: Tamil kings had been fighting an ancient battle against Sinhalese repression and Tamil nationalist reinterpretations of the past are conveyed.

Since the late 1960s, school textbooks have been published by the Department of Educational Publications under the Ministry of Education. Before that, they were privately published. These privately published texts mostly contained the kind of Sinhalese nationalist history outlined above. Some, however, like the *Nava Maga* (New Path) Series published in 1950, aimed to promote inter-communal understanding through their story-telling. Texts of this latter kind are no longer produced. The ethnocentric content of school textbooks increased after the state took over their production. The more recent Sinhala readers have shown limited improvements, however. The 1985 edition of *Sinhala V*, was less confrontational in its presentation of history than its predecessor, and did include a reading on a Sinhalese family visiting Jaffna. Overall, however, the historical content of the readers and of Buddhist and social studies teaching, as mentioned above, is nationalistic and antagonistic towards Tamils.

In the case of Tamil-language textbooks, before the government took over their publication they were privately published in Jaffna, Colombo, or in Madras, and approved by the Government Text Book Committee for use in Tamil-medium schools. These texts conveyed an

exclusivist sense of Tamil identity and nationalism, linked to the culture of Tamil Nadu in India, and contained no reference to other ethnic groups in Sri Lanka. The content of the present-day, government-produced Tamil readers is different. A greater attempt is made in these texts than in the Sinhala and English-language readers to convey the plural, multi-ethnic nature of Sri Lanka and the desirability of harmonious ethnic relations. But there remains a tendency for a Sinhalese version of the past to predominate, and teachers and students generally view the ‘official’ history contained in Tamil textbooks as biased and incorrect.



Conclusion

The return to war following the collapse of negotiations between the government and the LTTE has had a massive impact on the lives of people living in the north and east, most critically with the displacement of hundreds of thousands of people from their homes in the north. The war has produced an immediate humanitarian crisis which needs to be addressed urgently. With the military denying journalists access to the conflict zones, and with censorship imposed on local media reporting of military affairs during the main offensive, it has been impossible for reliable, independent accounts of the conduct of the war and the condition of the displaced to emerge. The intimidating verbal attacks made by the government in the latter part of 1995 on the work of major international humanitarian agencies working in the north and east – including the ICRC – has further hindered the free flow of information on crucial human rights and humanitarian issues connected with the war. The few outside agencies that do have representatives working in the war zones fear that their space for work might be threatened if they speak out on these issues. Even the question of just how many displaced people there are has been much contested by the government. In the propaganda battle between the LTTE and the government, the government appears intent on conveying an image of the situation which minimizes the suffering of those involved, rather than conducting its relief operations in an open and transparent manner.

The current situation is riddled with paradox. On the one hand a government is in power which has presented the most ambitious proposals for devolution to date; proposals which might have offered a real chance of peace. On the other, the resumption of war has produced the most serious humanitarian crisis in the country to date: never before have people been displaced on such a scale. As the conflict continues, distrust and intransigence deepen. The conflict has generated its own momentum and will not easily be settled.

Restructuring the state is a major, but necessary, undertaking if the conflict is to be resolved. It has been clear since independence that the very form of the state (as a unitary parliamentary structure) militates against the realization of minority rights. Majoritarian rule in Sri Lanka has resulted in the alienation of minorities with tragic consequences for all. Substantial devolution of powers is therefore a precondition for a lasting solution to the conflict. Negotiations over the years on these issues have shown some progress, notably in the acceptance by the major parties in the south that substantial devolution to the regions is necessary; nevertheless agreement on the

actual powers involved and especially on the units to which they would be devolved may still prove elusive. The fate of the proposals for devolution put forward by the government in August 1995 remained most uncertain in early 1996.

Devolution alone – however extensive – would not provide a complete solution, however. Issues of equity in the distribution of the state's overall resources, and the relative advantage and disadvantage of different communities and classes, remain important. And within the units of devolution, safeguards would also be needed to ensure the protection of basic human rights and that effective remedies are available for all.

Until very recently, no area of Sri Lanka was completely mono-ethnic, although there are clear ethnic majorities in certain areas. Only when the LTTE drove Sinhalese and Muslim residents out of the Jaffna peninsula in 1990 did the area become exclusively Tamil (leaving aside the presence of the Sri Lankan military in some parts of the peninsula). The conflict has created a hardening of ethnic lines in the north and east, and the potential for considerable violence between communities. Adequate safeguards to protect minorities living within each region, as well as individuals, must be created. The danger of ethnic exclusivism and the break-up of the state along ethnic lines must be guarded against, while also recognizing the rights and interests of the various groups living in any region. The experience of life under the LTTE in Jaffna has shown that those who rule in the name of one ethnic group may well suppress basic freedoms within it.

While a restructuring of the state, together with wider constitutional and legal and institutional reforms – including the strengthening of human rights protection – appear to be preconditions for the conflict to be resolved, there is also considerable other work that needs to be done towards achieving that goal. The issues addressed in this report are not exhaustive, but they do indicate some key areas in which long-term programmes of work are needed.

The state does not take issues of discrimination seriously enough: it has not implemented the official language policy, for example, so Tamil-speakers remain at a severe disadvantage in their dealings with the state in very many contexts at local and national level and are implicitly excluded from the 'national community' that is being served or addressed by the state and its representatives. Much greater priority and resources need to be given to addressing this issue.

In the planning and implementation of development projects, too, it is essential that a greater awareness of the ethnic dimensions of development be cultivated. In the planning of development programmes overall, attention needs to be paid not only to reaching the most deprived

groups in society, but to the overall distribution of the benefits of development. Group perceptions of relative equity in development are of critical importance, and need to be addressed seriously. The impact of projects on ethnic relations needs to be considered at national as well as local levels.

The state also continues to provide an education to children which does little to foster harmonious coexistence, instead reinforcing prejudice based on exclusivist understandings of history and ethnicity. This helps people to 'justify' the current conflict as being almost inevitable: the continuation of ancient, almost innate, hostilities. Considerable effort needs to be made to rethink the nature of the history and related subject-matter that is taught in schools and to develop new teaching materials. Associated with this task is the development of materials for more general use to promote democratic norms of pluralism and tolerance.

An associated issue is the nature of media coverage of Sri Lankan society and the conflict. Although the minority of intellectuals and political activists who challenge nationalist assumptions in history were given greater public voice after the PA government came into power in 1994, the mainstream media still generally reinforces the kind of images and prejudices already examined in the context of education. Few attempts are made to convey the reality of daily life for civilians living in the north and east. Even before censorship was imposed and access to the area became impossible, hardly any journalists attempted to cover the conduct of the war. They relied instead on the information supplied by the government, on the one hand, and the LTTE on the other. Yet the need for considerably greater awareness and understanding of the lives of others is abundantly clear if the major shifts in public understanding and consciousness that are so necessary for the resolution of these issues are to be achieved.



Recommendations

Moving towards a just and democratic resolution to the conflict

Military means will not resolve the conflict; a process of negotiations leading to a political solution remains necessary. A demonstrable commitment to finding a peaceful solution is required from both sides. Both sides should consider inviting a neutral third party – acceptable to all involved – to assist in the development of this process.

Certain steps need to be taken irrespective of the armed conflict to enhance human rights protection and to build trust and good faith within and between communities. Others relate directly to the conduct of the conflict. Taken together, their implementation would also help lay the foundations for a just and sustainable resolution to the conflict.

Implementation of humanitarian law

Should armed conflict continue, all parties should insist that combatants adhere to at least the basic standards of humanitarian law contained in Common Article 3 of the Geneva Conventions and the Additional Protocol II to the Geneva Conventions, which is concerned with the protection of victims of internal armed conflict. In accordance with these principles, the LTTE should immediately cease its recruitment of children. Both parties should cease using civilians as human shields. The government should ratify the Additional Protocol II to the Geneva Conventions. Once ratified, its provisions – which contain important protections for civilians – would automatically become binding on all parties to the conflict.

Constitutional and legislative reform

Sri Lankan law and practice violates the requirements of the International Covenant on Civil and Political Rights (ICCPR). Revisions to the constitution currently in preparation should ensure the full incorporation of all rights guaranteed under the ICCPR and guarantee that any restrictions will not exceed those permitted under the ICCPR. Internationally recognized principles on minority rights pro-

tection, including those contained in the UN Convention on the Elimination of All Forms of Racial Discrimination and the UN Declaration on the Rights of (...) Minorities, should also be incorporated. In addition, the constitution should provide for judicial review of all existing and future legislation. A thorough review of all existing legislation – including the Prevention of Terrorism Act and the Public Security Ordinance under which emergency regulations are issued – is also required to ensure its conformity with Sri Lanka's international human rights obligations. Any discriminatory provisions – such as those applying to Up Country Tamils, who are citizens by registration – should be removed.

Proposals for devolution

In principle, MRG supports participatory devolution arrangements as a means of enhancing minority rights protection and building peace. These must address the roots of the conflict, and also incorporate safeguards and grievance mechanisms to prevent renewed conflict developing. The full range of rights of members of all groups – wherever they live in a country and whether they form a majority or a minority within any devolved unit – must be fully protected and promoted, with access to effective remedies readily available.

Ending impunity

The appointment of Presidential Commissions of Inquiry into disappearances is a welcome step towards this goal. However, the government still needs to show a firm commitment towards ending the impunity with which these and other grave human rights violations have been carried out over many years. It should also empower the Commissions to investigate disappearances committed before 1988. All reported human rights violations should be fully and impartially investigated, the findings should be made public, and wherever there is sufficient evidence to bring perpetrators to trial, they should be prosecuted.

Strengthening human rights institutions

The government has published a bill to create a Human Rights Commission. However, its provisions do not fulfil the standards for such bodies as contained in

the UN Principles relating to the Status of National Institutions, adopted at the UN Commission on Human Rights in March 1992. If a Human Rights Commission is to be created, it should at least fulfil these minimum standards. It is also important that a thorough review be made of all existing state human rights institutions, in order to ensure that there is no duplication or confusion of roles, and that they can coordinate their functions.

Minorities and development

Due regard for the ethnic dimensions of development, and the need for minority participation, should be incorporated into development policy, as well as into the planning and implementation of specific projects, in accordance with the UN Declaration on the Rights of Minorities. Particular attention needs to be paid to the impact of development projects on ethnic relations, whether or not the particular project specifically targets a minority group, and on the overall distribution of the benefits of development between different groups in society.

Education and strengthening of civil society

Measures to secure the long-term demilitarization of society, reconciliation and strengthening of the institutions of civil society, should be integral to the development process. The development of education policies, practices and materials which seek to promote understanding and respect for the fundamental rights and freedoms of all, while promoting and celebrating cultural diversity, is one important strand of this process. The development of a public service media which promotes similar values is also crucial, as is the work of non-governmental organizations.

The Sri Lankan government should also follow the principles outlined in Articles 28 and 29 of the UN Convention of the Rights of the Child (1989), and the UNESCO Convention Against Discrimination in Education (1960).

The internally displaced

Particular attention needs to be paid to ensuring the basic human rights and long-term security of the internally displaced. Forced evacuation should be halted, as should forced resettlement. When conditions permit, the displaced should have the right to return to their place of origin.

Non-discrimination in the provision of state resources

The principle of non-discrimination is fundamental to human rights and a pre-condition to establishing trust

among the population. National policies and programmes should therefore be planned and implemented with due regard for the legitimate interests of minorities, as specified in the UN Declaration on the Rights of Minorities. Equitable access to state resources – including employment, education, health care – should be ensured. The full implementation of the official language policy is crucial in this regard, as at present monolingual Tamil-speakers remain greatly disadvantaged in their dealings with the state. More equitable access to broadcasting in all languages also needs to be provided.

Humanitarian action

The freedom of expression and association of both intergovernmental and non-governmental humanitarian organizations has become increasingly constrained in both government and LTTE-controlled areas of the island. All parties need to recognize the important role played by such organizations and to ensure that they are able to fulfil their legitimate functions without harassment, interference or threat. It is also essential that no obstacles be placed on the free flow of information on matters of humanitarian and human rights concern. Both sides must ensure that nothing impedes the flow of adequate humanitarian provisions, including both food and non-food items, to the affected civilian population.

The right to seek asylum

The right of Sri Lankans to seek asylum overseas is increasingly threatened. It is essential that all countries, where refuge is sought, ensure that asylum seekers are granted their full rights under the UN Convention Relating to the Status of Refugees.



1. Some Tamil writers have argued that their community should not be conceived of as a 'minority' within the larger state, but as a separate nation, equal to the Sinhalese nation.
2. The number of people displaced by war soared in late 1995 when almost the entire population of Jaffna evacuated the city prior to government troops moving in to capture it from the LTTE. Estimates of the number displaced in the north at the end of 1995 range from 100–500,000.
3. This was the second insurgency by the Sinhalese nationalist Janatha Vimukthi Peramuna (JVP), the People's Liberation Front. The first, in 1971, was suppressed swiftly and brutally. The second, from 1988 to 1990, took considerably longer to suppress, with even greater loss of life.
4. Various terms are used in the literature on Sri Lanka to refer to this group, including Up Country Tamils, Tamils of Indian origin, Estate Tamils, Plantation Tamils, and Hill Country Tamils. 'Up Country Tamil' is used in this report as a neutral term which is not felt to carry derogatory connotations.
5. Department of Census and Statistics, Colombo, reproduced in Bastian, S., *Statistical Guide on Ethnic Groups in Sri Lanka*, International Centre for Ethnic Studies, Colombo, 1986.
6. These included Burghers (descendants of Sri Lankan and Dutch or Portuguese parents) and Malays.
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11. Wilson, A.J., *The Break-up of Sri Lanka: The Sinhalese-Tamil Conflict*, C. Hurst, London, 1988, p. 22. The demand for self-determination was made by the Ceylon Tamil Congress in a telegram to the Secretary of State for the Colonies in 1947; later that year, the leader of the Tamil Congress, S.J.V. Chelvanayakam, called for a federal constitution.
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13. See Cheran, R., 'Cultural politics of Tamil nationalism', in *South Asia Bulletin*, vol. XII, no. 1, 1992.
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17. See Wriggins, W.H., *Ceylon: Dilemmas of a New Nation*, Princeton University Press, Princeton, 1960, and Fernando, P.T.M., 'Elite politics in the new state: the case of post-independence Sri Lanka' in *Pacific Affairs*, vol. 46, 1973, pp. 361–85.
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22. Coomaraswamy, R., *Ibid.* pp. 22, 24 and 31.
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93. Article 14(2), however, specifies that non-citizens who were permanently and legally resident in Sri Lanka immediately prior to the constitution would be entitled to enjoy these rights for a period of 10 years. This would have applied particularly to the Up Country Tamils.

94. Extrajudicial executions and disappearances have been documented in numerous reports by local and international human rights organizations, including the Civil Rights Movement of Sri Lanka, Amnesty International, Asia Watch, International Commission of Jurists, and Law Asia.

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102. Article 15(1) of the Universal Declaration of Human Rights, which was adopted by the UN General Assembly later that year, on 10 December 1948, reads 'Everyone has the right to a nationality.' Under Article 15(2), 'No one shall be arbitrarily deprived of his [sic] nationality nor denied the right to change his nationality.'

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